United Nations

Report of the International Court of Justice

1 August 2003-31 July 2004

General Assembly
Official Records
Fifty-ninth Session
Supplement No. 4 (A/59/4)

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United Nations • New York, 2004

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ISSN 0251-8473

[2 September 2004]

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I. SUMMARY

1. The International Court of Justice, principal judicial organ of the United Nations, consists of 15 Judges elected for a term of nine years by the General Assembly and the Security Council. Every three years one third of the seats fall vacant. The last elections to fill such vacancies were held on 21 October 2002. Sitting Judges Shi Jiuyong (China) and Abdul G. Koroma (Sierra Leone) were re-elected; Messrs Hisashi Owada (Japan), Bruno Simma (Germany) and Peter Tomka (Slovakia) were elected with effect from 6 February 2003.

2. On the latter date the Court, in its new composition, elected Mr. Shi Jiuyong as its President and Mr. Raymond Ranjeva as its Vice-President for a term of three years.

3. As from 6 February 2003, the composition of the Court is consequently as follows:

President: Shi Jiuyong (China); Vice-President: Raymond Ranjeva (Madagascar); Judges: Gilbert Guillaume (France); Abdul G. Koroma (Sierra Leone); Vladlen S. Vereshchetin (Russian Federation); Rosalyn Higgins (United Kingdom); Gonzalo Parra-Aranguren (Venezuela); Pieter H. Kooijmans (Netherlands); Francisco Rezek (Brazil); Awn Shawkat Al-Khasawneh (Jordan); Thomas Buergenthal (United States of America); Nabil Elaraby (Egypt); Hisashi Owada (Japan); Bruno Simma (Germany); Peter Tomka (Slovakia).

4. The Registrar of the Court, elected for a term of seven years on 10 February 2000, is Mr. Philippe Couvreur; the Deputy-Registrar, re-elected on 19 February 2001, also for a term of seven years, is Mr. Jean-Jacques Arnaldez.

5. Furthermore, it should be noted that, in line with the increase in the number of cases, the number of judges ad hoc chosen by States parties has also been increasing. It currently stands at 22, with these functions being carried out by 18 individuals (the same person is often appointed to sit as judge ad hoc in several different cases).

6. As the Assembly will be aware, the International Court of Justice is the only international court of a universal character with general jurisdiction. That jurisdiction is twofold.

7. In the first place, the Court has to decide upon disputes freely submitted to it by States in the exercise of their sovereignty. In this respect, it should be noted that, as at 31 July 2004, 191 States were parties to the Statute of the Court and that 65 of them had deposited with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction in accordance with Article 36, paragraph 2, of the Statute. Further, some 300 bilateral or multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising out of their application or interpretation. Finally, States may submit a specific dispute to the Court by way of special agreement, as a number have done recently.

8. Secondly, the Court may also be consulted, on any legal question, by the General Assembly or the Security Council, and, on legal questions arising within the scope of their activities, by other organs of the United Nations and specialized agencies having been so authorized by the General Assembly.

9. Over the past year, the number of cases pending before the Court has remained high. Whereas in the 1970s the Court had only one or two cases on its docket at any one time, between 1990 and 1997 this number varied between nine and 13. Since then it has stood at 20, as was the case on 31 July 2004, or has exceeded that number.

10. The contentious cases come from all over the world, currently four being between African States, one between Asian States, 11 between European States and two between Latin American States, whilst two are of an intercontinental character.

11. Their subject-matter is extremely varied. Thus, the Court's docket has frequently contained cases concerning territorial disputes between neighbouring States seeking a determination of their land and maritime boundaries, or a decision as to which of them has sovereignty over particular areas. This is the position for four cases concerning, respectively, Nicaragua and Honduras, Nicaragua and Colombia, Benin and Niger, and Malaysia and Singapore. Another classic type of dispute is where a State complains of treatment suffered by one

or more of its officials or nationals in another State; this is the position in the case between Guinea and the Democratic Republic of the Congo, in the case between Liechtenstein and Germany, and the case between the Republic of the Congo and France.

12. Other cases relate to events that have come to the attention also of the General Assembly or the Security Council. Thus the Court is seised of the two cases in which Bosnia and Herzegovina and Croatia have sought the condemnation of Serbia and Montenegro for violation of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, while Serbia and Montenegro itself has brought proceedings against eight member States of NATO, challenging the legality of their action in Kosovo. Finally, the Democratic Republic of the Congo, in two separate cases, contends that it has been the victim of armed aggression on the part of Uganda and Rwanda, respectively.

13. The increase in the number and diversity of cases submitted by States to the Court needs, admittedly, to be qualified to take account of an element of linkage. Thus, as mentioned above, eight sets of proceedings all have as their subject-matter the action by NATO member States in Kosovo. However, each one of these proceedings still involves separate pleadings, which have to be translated and processed. Moreover, the legal problems that they raise are by no means always identical.

14. Furthermore, many cases have been rendered more complex as a result of preliminary objections by respondents to jurisdiction or admissibility, and of counter-claims and applications for permission to intervene, not to mention requests by applicants, and even sometimes respondents, for the indication of provisional measures, which have to be dealt with as a matter of urgency.

15. In the past year, the Court on 6 November 2003 handed down its Judgment in the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America). In that case Iran contended that, in attacking and destroying on 19 October 1987 and 18 April 1988 three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, the United States had violated the freedom of commerce between the territories of the parties as guaranteed by the Treaty of Amity, Economic Relations and Consular Rights signed between them in 1955. Iran was seeking reparation for the injury thus caused. The United States argued in a counter-claim that it was Iran which had violated the 1955 Treaty by attacking vessels in the Gulf and otherwise engaging in military actions that were dangerous and detrimental to commerce and navigation between the United States and Iran. The United States likewise sought reparation for the injury suffered. The Court first considered whether the actions by American naval forces against the Iranian oil complexes were justified under the 1955 Treaty as measures necessary to protect the essential security interests of the United States (Article XX, paragraph 1 (d), of the Treaty). It concluded that the United States would only have been entitled to have recourse to force under the provision in question if it had been acting in self-defence, provided that it had been the victim of an armed attack by Iran and that the actions were necessary and proportional. After carrying out a detailed examination of the evidence provided by the parties, the Court concluded that that was not the case. The Court then examined the issue of whether the United States, in destroying the platforms, had impeded their normal operation, thus preventing Iran from enjoying freedom of commerce "between the territories of the two High Contracting Parties" as guaranteed by Article X, paragraph 1, of the 1955 Treaty. The Court found that the United States had not breached its obligations to Iran under that Article and rejected in consequence Iran's claim for reparation. In regard to the United States counter-claim, the Court found that, according to the evidence before it, there was not, at the relevant time, any actual impediment to commerce or navigation between the territories of the parties by incidents attributed by the United States to Iran, and accordingly rejected also the United States counter-claim for reparation.

16. On 18 December 2003, the Chamber of the Court formed to deal with the case concerning the Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras) found that the Application for revision of the 1992 Judgment presented by El Salvador was inadmissible. The Chamber pointed out that, pursuant to Article 61 of the Statute, an application for revision should "be based upon the 'discovery' of a 'fact'"; and that this fact must be "of such a nature as to be a decisive factor" and "should have been 'unknown' to the Court and to the party claiming revision when the judgment was given". The Chamber observed that if any of these conditions is not met, an application must be dismissed. El Salvador claimed in the

first place to possess scientific, technical and historical evidence showing the existence of a previous bed of the River Goascorán, as well as the avulsion of the river in the mid-eighteenth century. According to El Salvador, these elements constituted "new facts" for purposes of Article 61. It claimed, moreover, that they were decisive. The Chamber noted that, in order to determine the boundary, the 1992 Judgment had based itself on the application of the principle of uti possidetis juris, under which the boundaries of States resulting from decolonization in Spanish America were to follow the colonial administrative boundaries, but that the situation resulting from uti possidetis was susceptible of modification as a result of the conduct of the parties after independence in 1821. It found that in the 1992 Judgment El Salvador's claims were rejected because of that State's conduct after 1821, and in particular during negotiations held in 1880 and 1884. It added that, under these circumstances, it did not matter whether or not there had been an avulsion of the Goascorán. The facts asserted in this connection by El Salvador were not 'decisive factors' in respect of the Judgment which El Salvador sought to have revised. The second "new fact" on which El Salvador relied, was the discovery in the Newberry Library in Chicago of further copies of the "Carta Esférica" (a maritime chart of the Gulf of Fonseca prepared by the captain and navigators of the brigantine El Activo around 1796) and of the report of that vessel's expedition, documents produced by Honduras in the original proceedings in versions held in the Madrid Naval Museum. The Chamber found that the new versions of those documents produced by El Salvador did not overturn the conclusions arrived at by the Chamber in 1992; on the contrary, they bore them out. Having reached the conclusion that none of the new facts alleged by El Salvador were "decisive factors" in respect of the Judgment of 11 September 1992, the Chamber rejected the Application.

17. On 31 March 2004 the Court delivered its Judgment in the case concerning Avena and Other Mexican Nationals (Mexico v. United States of America). In that case Mexico had instituted proceedings against the United States of America in a dispute concerning alleged breaches of Articles 5 and 36 of the Vienna Convention on Consular Relations of 24 April 1963, in relation to the treatment of a number of Mexican nationals who had been tried, convicted and sentenced to death in criminal proceedings in the United States. Having rejected objections by the United States to its jurisdiction and to the admissibility of the claims of Mexico, the Court found that, because the United States had not proved that some of the individuals concerned were also United States nationals, it did have obligations to provide consular information under Article 36, paragraph 1 (b), of the Vienna Convention towards all 52 Mexican nationals. After examination of the meaning of the expression "without delay" used in the Convention, the Court concluded that the United States was in breach of its obligation to provide consular notification as provided by Article 36, paragraph 1 (b), of the Convention in all of the cases save one. Taking note of the interrelated nature of the three subparagraphs (a), (b) and (c) of paragraph 1 of Article 36 of the Vienna Convention the Court then found, in 49 of the cases, that the United States had also violated its obligation under subparagraph (a) to enable Mexican consular officers to communicate with, have access to and visit their nationals; while, in 34 cases, the United States had in addition violated its obligation under subparagraph (c) to enable Mexican consular officers to arrange for legal representation of their nationals. With regard to Mexico's submission that the United States had violated Article 36, paragraph 2, by failing to provide "meaningful and effective review and reconsideration of convictions and sentences", the Court found that in three cases the United States had violated indeed its obligations, but that the possibility of judicial re-examination was still open in 49 of the cases.

18. The Court found that adequate reparation for violations of Article 36 should be provided by review and reconsideration of the convictions and sentences of the Mexican nationals by United States courts. It considered that the choice of means for review and reconsideration should be left to the United States, but that it was to be carried out by taking account of the violation of rights under the Vienna Convention. It found that the clemency process, as currently practised within the United States criminal justice system, was not sufficient in itself to serve that purpose, although appropriate clemency procedures could supplement judicial review and reconsideration. With regard to Mexico's request for the cessation of wrongful acts by the United States, the Court found no evidence of a "regular and continuing" pattern of breaches by the United States of Article 36 of the Vienna Convention. As to Mexico's request for guarantees and assurances of non-repetition, the Court recognized the United States efforts to encourage implementation of its obligations under the Vienna Convention and considered that that commitment by the United States met Mexico's request. At the end of its reasoning, the Court emphasized that it was important to note that, in this case, it had been addressing issues of principle from the viewpoint of the general application of the Vienna Convention. It observed that, while this case concerned

only Mexicans, its Judgment could not be taken to imply that the Court's conclusions did not apply to other foreign nationals finding themselves in similar situations in the United States.

19. During the period under review the Court also received from the General Assembly the request for an advisory opinion on the question of the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.

20. On 9 July 2004, the Court, rendered its Advisory Opinion, in which it first addressed the questions of its jurisdiction to give the requested opinion and of the judicial propriety of exercising that jurisdiction. The Court found, unanimously, that it had jurisdiction to give the advisory opinion requested and decided, by fourteen votes to one, to comply with that request.

21. Before addressing the legal consequences of the construction of the wall, the Court then considered the question of the legality of the construction of the wall. It found, by fourteen votes to one, that

> "The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law".

22. With regard to the legal consequences of the violations found, the Court distinguished between the consequences for Israel, those for other States, and, where appropriate, for the United Nations.

As regards the consequences for Israel, the Court, by fourteen votes to one, found that:

> "Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion";

and that "Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem".

Concerning the consequences for other States, the Court found, by thirteen votes to two, that

> "All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; all States parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention".

With regard to the United Nations finally, the Court found, by fourteen votes to one, that

> "The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated régime, taking due account of the present Advisory Opinion."

23. The Court concluded its reasoning in the Advisory Opinion by stating that the construction of the wall must be placed in a more general context. In this regard, it noted that Israel and Palestine are "under an obligation scrupulously to observe the rules of international humanitarian law". The Court expressed the view that the tragic situation in the region can be brought to an end only through implementation in good faith of all relevant Security Council resolutions. The Court further drew the attention of the General Assembly to the "need for . . . efforts to be encouraged with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region".

24. Over the course of the last year, nine Orders concerning the organization of the proceedings in current cases were made by the Court, its President, or the President of the Chamber in the case concerning the Frontier Dispute (Benin/Niger)

25. Until recently the Court has been able to proceed, or to begin to proceed, without excessive delay to the consideration of those cases which were ready for judgment. However, in view of the increasing number and complexity of cases brought before the Court it has become more and more difficult to hold hearings in all of them directly after the closure of the written proceedings. The judicial year 2003-2004 has been particularly busy, as will be the case for the coming year.

26.Conscious of these problems, the Court had already in 1997 taken various measures to rationalize the work of the Registry, to make greater use of information technology, to improve its own working methods and to secure greater collaboration from the parties in relation to its procedures. An account of these various measures was set out in the report submitted to the General Assembly in response to Assembly resolution 52/161 of 15 December 1997 (see Appendix 1 to the Report of the Court for the period 1 August 1997 to 31 July 1998). These efforts have been continued. The Court has also taken steps to shorten and simplify proceedings. In December 2000, it revised certain of its Rules. As of October 2001, it adopted various Practice Directions (see pp. 98 and 99 of the Annual Report for 2001-2002). The Court welcomes the co-operation it has received from some parties to cases who have taken steps to reduce both the number and volume of written pleadings as well as the length of their oral arguments, and who in some cases provided the Court with their pleadings in both of its official languages. In April 2002, the Court reviewed again its working methods; they are in part subject to permanent re-examination. More recently, in July 2004, it adopted further measures which mostly concern the internal functioning of the Court and provide practical methods for increasing the number of decisions rendered each year, thereby shortening the period between the closure of written proceedings and the opening of oral proceedings. In addition, the Court seeks better compliance by States parties to cases with its previous decisions aimed at accelerating the Court's procedure, which it intends to apply more strictly. The Court has amended existing Practice Direction V and promulgated new Practice Directions X, XI and XII. The amendment to Practice Direction V, which sets the four-month period for the presentation by a party of its observations and submissions on preliminary objections, clarifies that this period runs from the date of the filing of the preliminary objections. Practice Direction X requests the agents of the parties to attend without delay any meeting called by the President of the Court whenever a decision on a procedural issue needs to be made in a case. Practice Direction XI states that in the oral pleadings on provisional measures parties should limit themselves to what is relevant to the criteria for the indication of such measures. Finally, Practice Direction XII establishes a procedure to be followed with regard to written statements and/or documents submitted by international non-governmental organizations in connection with advisory proceedings. (for the text of these Practice Directions, see below, paras. 247-249).

27. In the last Annual Report, it was observed, with respect to the budget for the biennium 2004-2005, that the Court had, in view of its ongoing and increased reliance upon advanced technology, requested a modest expansion of its Computerized Division from one to two professional officers. The need for a professional staff member with high IT skills appeared to be essential in order to meet the request by the General Assembly for enhanced use of modern technology. Unfortunately the Court's request was not successful, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) having considered that further justification of the need for this position was required.

28. On a positive note, the Court is pleased to report that two other requests for the 2004-2005 biennium were approved. Five Law Clerk posts, to conduct research for the fifteen Members of the Court, were converted from general temporary assistance to established posts. Moreover, as a result of the enquiry into the "strengthening [of] the security and safety of the United Nations operations staff and premises" (A/58/756) conducted by the Secretary General, two security posts were created, as recommended by the United Nations Security Co-ordinator. The 2004-2005 budget was prepared prior to the United Nations urgent request for an Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestine Territories. In view of the extraordinary and unforeseen costs, associated inter alia, with security requirements and media

demands, incurred for the issuance of the Opinion, it appears certain that the 2004-2005 budget will require additional funds.

29. In conclusion, the International Court of Justice welcomes the increased confidence that States have shown in the Court's ability to resolve their disputes. The Court has carried out its judicial tasks with care and determination during the 2003-2004 session. It will of course do so during the coming year.

II. Organization of the Court

A. Composition

30. The present composition of the Court is as follows: President: Shi Jiuyong; Vice-President: Raymond Ranjeva; Judges: Gilbert Guillaume, Abdul G. Koroma, Vladlen S. Vereshchetin, Rosalyn Higgins, Gonzalo Parra-Aranguren, Pieter H. Kooijmans, Francisco Rezek, Awn Shawkat Al-Khasawneh, Thomas Buergenthal, Nabil Elaraby, Hisashi Owada, Bruno Simma and Peter Tomka.

31. The Registrar of the Court is Mr. Philippe Couvreur. The Deputy-Registrar is Mr. Jean-Jacques Arnaldez.

32. In accordance with Article 29 of the Statute, the Court forms annually a Chamber of Summary Procedure, which is constituted as follows:

Members

President Shi Jiuyong
Vice-President R. Ranjeva
Judges G. Parra-Aranguren, A. S. Al-Khasawneh and T. Buergenthal

Substitute Members

Judges N. Elaraby and H. Owada.

33. Following the election held on 6 February 2003, the Court's Chamber for Environmental Matters, which was established in 1993 pursuant to Article 26, paragraph 1, of the Statute, and whose mandate in its present composition runs to February 2006, is composed as follows:

President Shi Jiuyong
Vice-President R. Ranjeva
Judges G. Guillaume, P. H. Kooijmans, F. Rezek, B. Simma and P. Tomka.

34. In the cases concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America), Libya chose Mr. Ahmed Sadek El-Kosheri to sit as judge ad hoc. In the former of the two cases, in both of which Judge Higgins recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge ad hoc. The latter sat as such in the phase of the proceedings concerning jurisdiction and admissibility.

35. In the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America), Iran chose Mr. François Rigaux to sit as judge ad hoc.

36. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Bosnia and Herzegovina chose Sir Elihu Lauterpacht and Serbia and Montenegro Mr. Milenko Kreća to sit as judges ad hoc. Following the resignation of Sir Elihu Lauterpacht, Bosnia and Herzegovina chose Mr. Ahmed Mahiou to sit as judge ad hoc.

37. In the case concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia), Judge Tomka being disqualified from sitting, Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge ad hoc.

38. In the case concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Guinea chose Mr. Mohammed Bedjaoui and the Democratic Republic of the Congo Mr. Auguste Mampuya Kanunk'a Tshiabo to sit as judges ad hoc. Following the resignation of Mr. Bedjaoui, Guinea chose Mr. Ahmed Mahiou to sit as judge ad hoc.

39. In the cases concerning the Legality of Use of Force (Serbia and Montenegro v. Belgium); (Serbia and Montenegro v. Canada); (Serbia and Montenegro v. France); (Serbia and Montenegro v. Germany); (Serbia and Montenegro v. Italy); (Serbia and Montenegro v. Netherlands); (Serbia and Montenegro v. Portugal) and

(Serbia and Montenegro v. United Kingdom), Serbia and Montenegro chose Mr. Milenko Kreća to sit as judge ad hoc; in the cases concerning (Serbia and Montenegro v. Belgium), (Serbia and Montenegro v. Canada) and (Serbia and Montenegro v. Italy), Belgium chose Mr. Patrick Duinslaeger, Canada Mr. Marc Lalonde and Italy Mr. Giorgio Gaja to sit as judges ad hoc. These judges sat during the examination of Serbia and Montenegro's requests for the indication of provisional measures. In March 2000 Portugal had also indicated its intention to appoint a judge ad hoc. With regard to the phase of the procedure concerning the preliminary objections, the Court, taking into account the presence upon the Bench of judges of British, Dutch and French nationality, decided that the judges ad hoc chosen by the respondent States should not sit during that phase. The Court observed that this decision did not in any way prejudice the question whether, if the Court should reject the preliminary objections of the respondents, judges ad hoc might sit in subsequent stages of the cases.

40. In the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), the Democratic Republic of the Congo chose Mr. Joe Verhoeven and Uganda Mr. James L. Kateka to sit as judges ad hoc.

41. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro), Croatia chose Mr. Budislav Vukas and Serbia and Montenegro Mr. Milenko Kreća to sit as judges ad hoc.

42. In the case concerning Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Nicaragua chose Mr. Giorgio Gaja and Honduras Mr. Julio González Campos to sit as judges ad hoc.

43. In the case concerning Certain Property (Liechtenstein v. Germany), Liechtenstein chose Mr. Ian Brownlie to sit ad judge ad hoc. After Mr. Brownlie's resignation, Liechtenstein chose Sir Franklin Berman. Judge Simma being disqualified from sitting, Germany chose Mr. Carl-August Fleischhauer to sit as judge ad hoc.

44. In the case concerning Territorial and Maritime Dispute (Nicaragua v. Colombia), Nicaragua chose Mr. Mohammed Bedjaoui and Colombia Mr. Yves L. Fortier to sit as judges ad hoc.

45. In the case concerning the Frontier Dispute (Benin/Niger), Benin chose Mr. Mohamed Bennouna and Niger Mr. Mohammed Bedjaoui to sit as judges ad hoc.

46. In the case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), the Democratic Republic of the Congo chose Mr. Jean-Pierre Mavungu and Rwanda Mr. John Dugard to sit as judges ad hoc.

47. In the case concerning Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras), El Salvador chose Mr. Felipe H. Paolillo and Honduras Mr. Santiago Torres Bernárdez to sit as judges ad hoc.

48. In the case concerning Avena and Other Mexican Nationals (Mexico v. United States of America), Mexico chose Mr. Bernardo Sepúlveda to sit as judge ad hoc.

49. In the case concerning Certain Criminal Proceedings in France (Republic of the Congo v. France), the Republic of the Congo chose Mr. Jean-Yves de Cara to sit as judge ad hoc.

50. In the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore), Malaysia chose Mr. Christopher J. R. Dugard to sit as judge ad hoc.

B. Privileges and Immunities

51. Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

52. In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges,

immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (I.C.J. Acts and Documents No. 5, pp. 201-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps; the Dean, who ranks after the President, is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (ibid., pp. 207-213).

53. By resolution 90 (1) of 11 December 1946 (ibid., pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that

> "if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there",

and that

> "judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

54. The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

55. Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

III. Jurisdiction of the Court

A. Jurisdiction of the Court in contentious cases

56. On 31 July 2004, the 191 States Members of the United Nations were parties to the Statute of the Court.

57. Sixty-five States have now made declarations (many with reservations) recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia, Cameroon, Canada, Costa Rica, Cyprus, the Democratic Republic of the Congo, Denmark, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Greece, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Ivory Coast, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Nauru, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, the Philippines, Poland, Portugal, Senegal, Serbia and Montenegro, Slovakia, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay. The declaration of Slovakia was deposited with the Secretary-General of the United Nations during the twelve months under review, on 28 May 2004. The texts of the declarations filed by the above States will appear in Chapter IV, Section II, of the next edition of the I.C.J. Yearbook.

58. Lists of treaties and conventions which provide for the jurisdiction of the Court will appear in Chapter IV, Section III, of the next edition of the I.C.J. Yearbook. There are currently in force approximately 100 such multilateral conventions and approximately 160 such bilateral conventions. In addition, the jurisdiction of the Court extends to treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

B. Jurisdiction of the Court in advisory proceedings

59. In addition to United Nations bodies (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly), the following organizations are at present authorized to request advisory opinions of the Court on legal questions arising within the scope of their activities:

International Labour Organisation;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization;
International Civil Aviation Organization;
World Health Organization;
World Bank;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Telecommunication Union;
World Meteorological Organization;
International Maritime Organization;
World Intellectual Property Organization;
International Fund for Agricultural Development;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

60. The international instruments that make provision for the advisory jurisdiction of the Court will be listed in Chapter IV, Section I, of the next edition of the I.C.J. Yearbook.

IV. Functioning of the Court

A. Committees of the Court

61. The committees constituted by the Court to facilitate the performance of its administrative tasks are composed as follows:

(a) The Budgetary and Administrative Committee: the President (Chair), the Vice-President and Judges Guillaume, Koroma, Vereshchetin, Kooijmans and Al-Khasawneh.

(b) The Committee on Relations: Judges Parra-Aranguren, Rezek, Al-Khasawneh and Owada.

(c) The Library Committee: Judges Koroma (Chair), Kooijmans, Rezek, Buergenthal and Tomka.

(d) The Computerization Committee, under the Chairmanship of the Vice-President, is open to all interested Members of the Court.

62. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judges Higgins (Chair), Buergenthal, Elaraby, Owada, Simma and Tomka.

B. The Registry of the Court

63. The Court is the only principal organ of the United Nations to have its own administration (see Art. 98 of the Charter). The Registry is the permanent administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Arts. 22-29 of the Rules). Since the Court is both a judicial body and an international institution, the role of the Registry is both to provide judicial support and to act as an international secretariat. Thus its work is, on the one hand, judicial and diplomatic, while, on the other, it corresponds to that of the legal, administrative, financial, conference and information departments of an international organization. The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar and its duties are worked out in instructions drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The Instructions for the Registry were drawn up in October 1946. An organizational chart of the Registry is appended at page 25.

64. Registry officials are appointed by the Court on proposals by the Registrar or, for General Service staff, by the Registrar with the approval of the President. Short-term staff are appointed by the Registrar. Working conditions are laid down in Staff Regulations adopted by the Court (see Art. 28 of the Rules of Court). Registry officials enjoy, generally, the same privileges and immunities as members of diplomatic missions in The Hague of comparable rank. They enjoy a status, remuneration and pension rights corresponding to those of secretariat officials of the equivalent category or grade.

65. Over the last 15 years, the Registry's workload, notwithstanding its adaptation to new technologies, has grown considerably following the substantial increase in the number of cases brought before the Court.

66. Taking into account the creation of two security posts under the 2004-2005 biennium (see above, para. 28), the staffing chart for the Registry shows at present a total of 98 staff members as follows: 45 staff members in the administrator or higher category (of which 33 hold permanent posts and 12 temporary posts), 53 staff members in the General Service category (of which 51 hold permanent posts and 2 temporary posts).

67. In order further to enhance its efficiency and in accordance with the views expressed by the General Assembly, the Registry is in the process of setting up a performance appraisal system for the Registry staff.

The Registrar and Deputy-Registrar

68. The Registrar is the regular channel of communications to and from the Court, and in particular he effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; he is present in person, or

represented by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, in particular with the organs of the United Nations, with other international organizations and States and in the fields of information concerning the Court's activities and the Court's publications (official publications of the Court, press releases, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

69. The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence; he has since 1998 been entrusted with wider administrative responsibilities, including direct supervision of the Archives, Computerization and General Assistance Divisions.

70. The Registrar and the Deputy-Registrar, when acting for the Registrar, are, pursuant to the exchange of correspondence mentioned in paragraph 57 above, accorded the same treatment as Heads of Diplomatic Missions in The Hague.

The Registry's substantive divisions and units

Department of Legal Matters

71. This Department, composed of seven staff members in the Professional category and one in the General Service category, is responsible for all legal matters within the Registry. In particular, its task is to assist the Court in the exercise of its judicial functions. It prepares the minutes of meetings of the Court and acts as secretariat to the drafting committees which prepare the Court's draft decisions, and also as secretariat to the Rules Committee. It carries out research in international law, examining previous legal and procedural decisions, and prepares studies and notes for the Court and the Registrar as required. It also prepares for signature by the Registrar all correspondence in pending cases and, more generally, diplomatic correspondence relating to the application of the Statute or the Rules of Court. It is also responsible for monitoring the headquarters agreements with the host country. Finally, the Department may be consulted on all legal questions relating to the terms of employment of Registry staff.

72. Also attached to the Department is a pool of five law-clerks, in the Professional category, whose task it is to undertake legal research at the request of Members of the Court.

Department of Linguistic Matters

73. This Department, composed of 18 staff members in the Professional category and one in the General Service category, is responsible for the translation of documents to and from the Court's two official languages. These documents include case pleadings and other communications from States parties, verbatim records of Court hearings, the Court's judgments, advisory opinions and orders, together with their drafts and working documents, judges' Notes, minutes of Court and committee meetings, internal reports, notes, studies, memos and directives, speeches by the President and judges to outside bodies, reports and communications to the Secretariat, etc. The Department also provides interpretation at private and public meetings of the Court and at meetings of the President and Court Members held with agents of the parties and other official visitors.

74. As a result of the growth of the Department since the 2002-2003 biennium, recourse to outside translators has been substantially reduced. However, outside translation assistance is still necessary on occasion, in particular for Court hearings. Outside interpreters are also still regularly required, notably for Court hearings and deliberations.

Information Department

75. This Department, composed of two staff members in the Professional category (one of these positions is shared by two staff members, each working half-time) and one in the General Service category, plays an important part in the Court's external relations. Its duties consist of preparing all documents or sections of documents containing general information on the Court (in particular the Annual Report of the Court to the General Assembly, the sections concerning the Court in various United Nations documents, the Yearbook, and documents for the general public); arranging for the circulation of printed publications and public documents issued by the Court; encouraging and assisting the press, radio and television to report on the work of the Court (in particular by preparing press releases); replying to all requests for information on the Court; keeping Members of the Court abreast of information in the press or on the Internet concerning pending or possible cases; organizing the public sittings of the Court and all other official events, including a large number of visits.

Technical Divisions

Personnel Division

76. This Division, composed of one staff member in the Professional and one in the General Service category is responsible for various duties related staff management and administration, including: planning and implementation of recruitment, placement, promotion, training and separation of staff. In administering staff, it ensures observance of Staff Regulations for the Registry, applicable United Nations Staff Regulations and Rules. As part of the recruitment exercise, the Division prepares vacancy announcements, reviews applications, arranges structured interviews for selection of candidates and prepares job offers for successful candidates, and provides introduction, orientation and briefing to new staff members. The Divisions also administers and monitors staff entitlements and benefits, handles the relevant personnel actions, liaises with the Office of Human Resources Management (OHRM) and the United Nations Joint Staff Pension Fund (UNJSPF).

Finance Division

77. This Division, composed of two staff members in the Professional category and three in the General Service category, is responsible for financial matters. Its financial duties include inter alia: preparation of the budget; financial accounting and reporting; procurement and inventory control; vendor payments; payroll and payroll related operations (allowances/overtime), and travel.

Publications Division

78. This Division, composed of three staff members in the Professional category, is responsible for preparation of manuscripts, proofreading and correction of proofs, study of estimates and choice of printing firms in relation to the following official publications of the Court: (a) Reports of Judgments, Advisory Opinions and Orders; (b) Pleadings, Oral Arguments, Documents (former "Series C"); (c) Bibliographies; (d) Yearbooks. It is also responsible for various other publications as instructed by the Court or the Registrar ("Blue Book" (handbook on the Court for the general public), "Background Notes on the Court", "White Book" (composition of the Court and the Registry)). Moreover, as the actual printing of the Court's publications is outsourced, the Division is also responsible for the preparation, conclusion and implementation of contracts with printers, including control of all invoices. (For the Court's publications, see Chapter VIII below.)

Documents Division — Library of the Court

79. This Division, composed of two staff members in the Professional category and three in the General Service category, has as its main task the acquisition, conservation and classification of leading works on international law, as well as periodicals and other relevant documents. The Division operates in close collaboration with the Peace Palace Library of the Carnegie Foundation; it also procures for the Court on request items not included in the catalogue of that Library.

80. It also receives United Nations publications, including the documents of its principal organs, which it has to index, classify and keep up to date. It prepares bibliographies for Members of the Court as required and

compiles an annual bibliography of all publications concerning the Court. It also has to make good the lack of a reference service for translators. The Division seeks to implement improved and more modern methods in performing its tasks, in particular through the gradual insertion of new technologies.

Archives, Indexing and Distribution Division

81. This Division, composed of one staff member in the Professional category and five in the General Service category, is responsible for indexing and classifying all correspondence and documents received or sent by the Court, and for the subsequent retrieval of any such item on request. The duties of this Division include in particular the keeping of an up-to-date index of correspondence, incoming and outgoing, as well as of all documents, both official and other, held on file. Automation of the management and status of archives files, the final phase of automation and computerization of the Division, is now in progress.

82. The Division also handles the despatch of official publications to Members of the United Nations, as well as to numerous institutions and private persons. It is also responsible for checking, distributing and filing all internal documents, some of which are strictly confidential.

Shorthand, Typewriting and Reproduction Division

83. This Division, composed of one staff member in the Professional category and nine in the General Service category, carries out all the typing work of the Registry and, as necessary, the reproduction of typed texts.

84. Other than actual correspondence, the Division is responsible in particular for the typing and reproduction of the following documents: translations of written pleadings and annexes, verbatim records of hearings and their translations, translations of judges' Notes and judges' amendments, judgments, advisory opinions and orders, translations of judges' opinions. In addition, it is responsible for checking documents and references, re-reading and page layout.

Judges' Secretaries

85. The work done by the 15 judges' secretaries is manifold and varied. As a general rule, the secretaries type Notes, amendments and opinions, as well as all correspondence of judges and judges ad hoc. They also check the references in Notes and opinions, and provide other assistance as required.

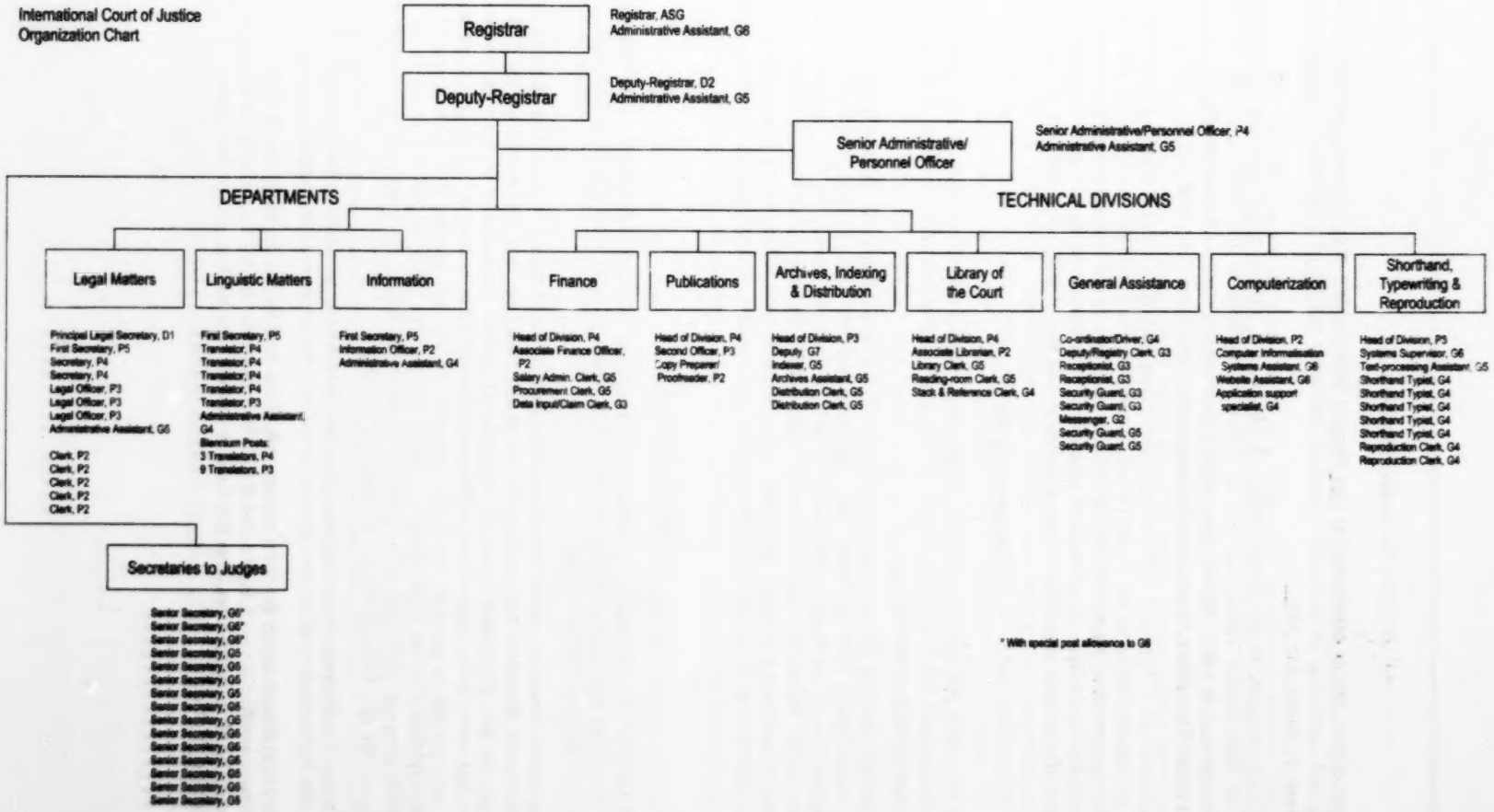
IT Division

86. The IT Division, composed of one staff member in the Professional category and three in the General Service category, is responsible for the efficient functioning and continued development of information technology at the Court. It is charged with the administration and functioning of the Court's local area networks and all other computer and technical equipment. It is also responsible for the implementation of new software and hardware projects, and assists and trains computer users in all aspects of information technology. Finally, the IT Division is responsible for the development and management of the ICJ website.

General Assistance Division

87. The General Assistance Division, composed of nine staff members in the General Service category, provides general assistance to Members of the Court and Registry staff in regard to messenger, transport, reception and telephone services. It is also responsible for security.

International Court of Justice
Organization Chart



C. Seat

88. The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

89. The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the Permanent Court of International Justice as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing, as well as a number of newly constructed offices on the third floor of the Peace Palace, were inaugurated in 1997.

90. An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946 and has undergone subsequent alterations. The agreement provides for the payment to the Carnegie Foundation of an annual contribution, which presently amounts to US$ 2,325,400.

D. Museum of the Court

91. On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum of the International Court of Justice (and of the other institutions which occupy the Peace Palace) situated in the south wing of the Peace Palace.

92. Its collection presents an overview of the theme "Peace through Justice", highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the subsequent construction of the Peace Palace as a seat for international justice; as well as the establishment and the functioning of the Permanent Court of International Justice and the present Court (different displays showcase the genesis of the United Nations; the Court and its Registry; the judges on the Bench, the provenance of judges and cases; the procedure of the Court; the world's legal systems; the case law of the Court; prominent visitors).

E. Stamps for the Court

93. On 20 January 2004 the President of the Court, Judge Shi Jiuyong, officially received from Mr. Roy Rempe, Director, Marketing and Communication of the Dutch postal services TPG Post, the first copies of two new stamps exclusively designed for the Court.

94. During a brief ceremony, which was attended by most of the Members of the Court, the Registrar and high officials of the Court, President Shi recalled that the Dutch postal services had issued for the first time in 1934 special stamps for the Permanent Court of International Justice, predecessor of the ICJ, and that this philatelic tradition had never failed since then. Between 1934 and 1989, a total of 15 different stamps were issued with their value printed in guilders, the Dutch currency. "I am very pleased that in the same spirit TPG Post, in a renewed expression of the high esteem in which it holds the principal judicial organ of the United Nations and of the importance it attaches to its presence in the Netherlands, has been willing to issue the new series, in two values of the new Euro currency", President Shi stated.

95. Mr. Rempe, for his part, drew attention to the fact that the stamps are "unique", the Court being "the only institution in the Netherlands with its own stamps, to which it has exclusive user rights".

96. The two new stamps cover the most current values for mail within the Netherlands and in the rest of Europe respectively, i.e., € 0.39 and € 0.61. Both were developed by a Dutch artist, Mr. Roger Willems. The first stamp represents the Peace Palace in The Hague, seat of the Court; the other the emblem of the Court.

V. JUDICIAL WORK OF THE COURT

97. During the period under review a total of 26 cases — 25 contentious cases and one advisory case — were pending, 20 of which remain so.

98. Over this period the Court received a request for an advisory opinion from the General Assembly concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.

99. In each of the cases concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America), the States parties notified the Court that they had "agreed to discontinue with prejudice the proceedings".

100. On 4 August 2003, the Republic of Liberia filed an Application in respect of a dispute with Sierra Leone concerning the indictment and international arrest warrant of 7 March 2003, issued against Charles Ghankay Taylor, President of the Republic of Liberia, by a decision of the Special Court for Sierra Leone at Freetown. In the Application, Liberia also requested the Court to indicate provisional measures. With regard to the Court's jurisdiction, Liberia referred to its own declaration of 1952 accepting the Court's jurisdiction as compulsory, and stated that "[w]ith a view to Article 38 (5) of the Rules of the Court, [it] expects the Republic of Sierra Leone to accede for the purpose of this Application to the jurisdiction of the Court pursuant to Article 36 (2) of the Statute of the Court . . .". Article 38, paragraph 5, of the Rules of Court reads as follows:

> "[W]hen the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

101. In accordance with that Article, a copy of the Application, together with the request for provisional measures, was transmitted to the Government of Sierra Leone. However, as of 31 July 2004, Sierra Leone had not given its consent to the Court's jurisdiction in the case; the Court has accordingly taken no action in the matter.

102. The Court held public hearings in the cases concerning Legality of Use of Force (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom), Certain Property (Liechtenstein v. Germany), Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras) and Avena and Other Mexican Nationals (Mexico v. United States of America), as well as on the request for an advisory opinion in the case concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. It further held a great number of private meetings.

103. The Court rendered judgments in the cases concerning Oil Platforms (Islamic Republic of Iran v. United States of America), Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras) and Avena and Other Mexican Nationals (Mexico v. United States of America). It also gave an Advisory Opinion in the case concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.

104. In the latter case the Court made an Order organizing the proceedings, as well as an Order on the composition of the Court. The Court further made Orders authorizing the submission of certain pleadings and fixing time-limits for their filing in the cases concerning Territorial and Maritime Dispute (Nicaragua v. Colombia) and Certain Criminal Proceedings in France (Republic of the Congo v. France).

105. The President of the Court made an Order in each of the cases concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America) placing on record the discontinuance of the proceedings with prejudice, by agreement of the parties, and directing the removal of the case from the Court's List. He further made an Order fixing time-limits for the filing of pleadings in the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore).

106. The President of the Chamber in the case concerning the Frontier Dispute (Benin/Niger) made two Orders, authorizing the submission of certain pleadings and fixing the time-limit for their filing.

Cases before the Court

A. Contentious cases

1., 2. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America)

107. On 3 March 1992, the Socialist People's Libyan Arab Jamahiriya filed two separate Applications instituting proceedings against the United Kingdom and the United States of America with regard to "dispute[s] . . . concerning the interpretation or application of the Montreal Convention" of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

108. In its Applications, Libya referred to charges made by the Lord Advocate of Scotland and an American Grand Jury against two Libyan nationals suspected of having caused the destruction of Pan Am Flight 103 over the town of Lockerbie, Scotland, on 21 December 1988, in which 270 people died. Following these charges, the United Kingdom and the United States had demanded that Libya surrender the alleged offenders for trial either in Scotland or in the United States and had seised the Security Council of the United Nations. Libya maintained that, by doing so, the United Kingdom and the United States had breached their legal obligations under the Montreal Convention and had to cease those breaches. It added that the Montreal Convention was the only instrument applicable to the destruction of the Pan Am aircraft over Lockerbie, that there was no other convention concerning international criminal law in force which was applicable to such issues between itself and the United Kingdom, nor between itself and the United States, and that, in accordance with the Montreal Convention, it was entitled to try the alleged offenders itself.

109. On 3 March 1992, Libya also asked the Court to indicate provisional measures to prevent further action by the United Kingdom and the United States to compel it to surrender the alleged offenders before any examination of the merits of the cases. However, by Orders of 14 April 1992, the Court, referring to resolution 748 which had been adopted in the meantime by the Security Council under Chapter VII of the United Nations Charter, found that the circumstances were not such as to require the exercise of its power to indicate such measures.

110. By Orders of 19 June 1992 the Court fixed 20 December 1993 as the time-limit for the filing of Memorials by Libya and 20 June 1995 as the time-limit for the filing of Counter-Memorials by the United Kingdom and the United States.

111. After Libya had filed its Memorials within the prescribed time-limit, the United Kingdom and the United States, on 16 and 20 June 1995 respectively, filed preliminary objections to the Court's jurisdiction and to the admissibility of Libya's Applications. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After Libya had presented written statements of its observations and submissions on the preliminary objections within the time-limit of 22 December 1995 fixed by the Court, public sittings were held from 13 to 22 October 1997. In two separate judgments of 27 February 1998 on the preliminary objections, the Court found that there existed disputes between the parties concerning the interpretation or application of the

Montreal Convention and that it had jurisdiction to hear the disputes on the basis of Article 14, paragraph 1, of the Montreal Convention, which concerns the settlement of disputes over the interpretation or application of the provisions of the Convention. The Court also found the Libyan claims admissible and stated that it was not appropriate, at that stage of the proceedings, to make a decision on the arguments of the United Kingdom and the United States that resolutions of the United Nations Security Council had rendered these claims without object.

112. By Orders dated 30 March 1998, the Court fixed 30 December 1998 as the time-limit for the filing of the Counter-Memorials of the United Kingdom and of the United States. The time-limit was subsequently extended by the Senior Judge, Acting President of the Court, to 31 March 1999 at the request of the United Kingdom and of the United States. The Counter-Memorials were filed within the time-limit thus extended.

113. By Orders of 29 June 1999, the Court authorized the submission of Replies by Libya and Rejoinders by the United Kingdom and the United States, fixing 29 June 2000 as the time-limit for the filing of Libya's Replies. Libya's Replies were filed within the prescribed time-limit.

114. In its Orders of 29 June 1999, the Court had, however, fixed no date for the filing of the Rejoinders; the representatives of the respondent States had expressed the desire that no such date be fixed at that stage of the proceedings, "in view of the new circumstances consequent upon the transfer of the two accused to the Netherlands for trial by a Scottish court".

115. Subsequently, by Orders of 6 September 2000, the President of the Court, taking account of the views of the parties, fixed 3 August 2001 as the time-limit for the filing of the Rejoinder of the United Kingdom and the United States respectively. The Rejoinders were filed within the prescribed time-limit.

116. By two letters of 9 September 2003, the Governments of Libya and the United Kingdom on the one hand, and of Libya and the United States of America on the other, notified the Court that they had "agreed to discontinue with prejudice the proceedings". Following those notifications, the President of the Court, on 10 September 2003, made an Order in each of the cases, placing on record the discontinuance of the proceedings with prejudice, by agreement of the parties, and directing the removal of the case from the Court's List.

3. Oil Platforms (Islamic Republic of Iran v. United States of America)

117. On 2 November 1992 the Islamic Republic of Iran filed an Application instituting proceedings against the United States of America in respect of a dispute concerning the destruction of three Iranian oil platforms. In its Application the Islamic Republic founded the jurisdiction of the Court on Article XXI, paragraph 2, of the Iran/United States Treaty of Amity, Economic Relations and Consular Rights, signed at Tehran on 15 August 1955 and which entered into force on 16 June 1957. Iran alleged that the destruction caused by a number of warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. Iran referred in particular to Article I of the Treaty which provides: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran." It also referred to Article X, paragraph 1, which provides: "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation." At the end of its Application, the Islamic Republic accordingly requested the Court to adjudge and declare that "in attacking and destroying the oil platforms referred to in the [above-mentioned] Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic"; that "in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X (1), and international law"; and that "the United States [was] under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings."

118. By Orders of 4 December 1992 and 3 June 1993, the President of the Court fixed and extended the time-limits for the filing of the Memorial of Iran and of the Counter-Memorial of the United States. Iran's Memorial was filed within the extended time-limit of 8 June 1993.

119. On 16 December 1993, within the time-limit fixed for the filing of its Counter-Memorial, the United States of America filed a preliminary objection to the Court's jurisdiction; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After the filing by Iran of a written statement on the preliminary objection within the time-limit of 1 July 1994 fixed by the Court's Order of 18 January 1994, public hearings were held from 16 to 24 September 1996. By a Judgment of 12 December 1996, the Court rejected the preliminary objection and found that it had jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by Iran under Article X, paragraph 1, of that Treaty.

120. Within the time-limit of 23 June 1997 fixed by the Court's Order of 16 December 1996, the United States of America filed its Counter-Memorial together with a counter-claim, requesting the Court to adjudge and declare that "in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987-88 that were dangerous and detrimental to maritime commerce, the Islamic Republic of Iran [had] breached its obligations to the United States under Article X of the 1955 Treaty", and that "the Islamic Republic of Iran [was] accordingly under an obligation to make full reparation to the United States for violating the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

121. By a letter of 2 October 1997 Iran informed the Court of its position that the counter-claim as formulated by the United States did not meet the requirements of Article 80, paragraph 1, of the Rules of Court. After each Party had filed written observations, the Court, by an Order of 10 March 1998, found that the counter-claim presented by the United States in its Counter-Memorial was admissible as such and formed part of the proceedings.

122. Iran filed a Reply within the extended time-limit of 10 March 1999 and the United States of America filed a Rejoinder within the extended time-limit of 23 March 2001. Iran was moreover authorized to file an additional pleading relating solely to the counter-claim and did so within the time-limit of 24 September 2001, as fixed by the Vice-President of the Court.

123. Public hearings on the merits of the case were held from 17 February to 7 March 2003. At the conclusion of those hearings the parties presented their final submissions to the Court.

The Islamic Republic of Iran requested the Court to adjudge and declare:

"1. That in attacking and destroying on 19 October 1987 and 18 April 1988 the oil platforms referred to in Iran's Application, the United States breached its obligations to Iran under Article X, paragraph 1, of the Treaty of Amity, and that the United States bears responsibility for the attacks; and

2. That the United States is accordingly under an obligation to make full reparation to Iran for the violation of its international legal obligations and the injury thus caused in a form and amount to be determined by the Court at a subsequent stage of the proceedings, the right being reserved to Iran to introduce and present to the Court in due course a precise evaluation of the reparation owed by the United States; and

3. Any other remedy the Court may deem appropriate."

and, with respect to the counter-claim of the United States of America:

"That the United States counter-claim be dismissed."

The United States of America requested the Court to adjudge and declare:

"(1) That the United States did not breach its obligations to the Islamic Republic of Iran under Article X, paragraph 1, of the 1955 Treaty between the United States and Iran; and

(2) That the claims of the Islamic Republic of Iran are accordingly dismissed."

and, with respect to its counter-claim, that the Court adjudge and declare:

"(1) Rejecting all submissions to the contrary, that, in attacking vessels in the Gulf with mines and missiles and otherwise engaging in military actions that were dangerous and detrimental to

commerce and navigation between the territories of the United States and the Islamic Republic of Iran, the Islamic Republic of Iran breached its obligations to the United States under Article X, paragraph 1, of the 1955 Treaty; and

(2) That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for its breach of the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

124. On 6 November 2003, the Court delivered its Judgment, the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

(1) By fourteen votes to two,

Finds that the actions of the United States of America against Iranian oil platforms on 19 October 1987 and 18 April 1988 cannot be justified as measures necessary to protect the essential security interests of the United States of America under Article XX, paragraph 1 (d), of the 1955 Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, as interpreted in the light of international law on the use of force; finds further that the Court cannot however uphold the submission of the Islamic Republic of Iran that those actions constitute a breach of the obligations of the United States of America under Article X, paragraph 1, of that Treaty, regarding freedom of commerce between the territories of the parties, and that, accordingly, the claim of the Islamic Republic of Iran for reparation also cannot be upheld;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Buergenthal, Owada, Simma, Tomka; Judge ad hoc Rigaux;

AGAINST: Judges Al-Khasawneh, Elaraby;

(2) By fifteen votes to one,

Finds that the counter-claim of the United States of America concerning the breach of the obligations of the Islamic Republic of Iran under Article X, paragraph 1, of the above-mentioned 1955 Treaty, regarding freedom of commerce and navigation between the territories of the parties, cannot be upheld; and accordingly, that the counter-claim of the United States of America for reparation also cannot be upheld.

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; Judge ad hoc Rigaux;

AGAINST: Judge Simma."

Vice-President Ranjeva and Judge Koroma appended declarations to the Judgment of the Court; Judges Higgins, Parra-Aranguren and Kooijmans appended separate opinions; Judge Al-Khasawneh appended a dissenting opinion; Judge Buergenthal appended a separate opinion; Judge Elaraby appended a dissenting opinion; Judges Owada and Simma and Judge ad hoc Rigaux appended separate opinions.

4. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)

125. On 20 March 1993, Bosnia and Herzegovina filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the

General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"). As the basis of the jurisdiction of the Court, Bosnia and Herzegovina invoked Article IX of that Convention.

126. In its Application, Bosnia and Herzegovina, among other claims, requested the Court to adjudge and declare that Serbia and Montenegro, through its agents and surrogates, "has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina", that it had to cease immediately this practice of so-called "ethnic cleansing" and pay reparations.

127. On 20 March 1993 Bosnia and Herzegovina also submitted a request for provisional measures. Public hearings were held on 1 and 2 April 1993, and by an Order dated 8 April 1993 the Court indicated that Serbia and Montenegro "should immediately . . . take all measures within its power to prevent commission of the crime of genocide" and that both Serbia and Montenegro and Bosnia and Herzegovina "should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute . . . or render it more difficult of solution". The Court limited its provisional measures to requests falling within the jurisdiction conferred on it by the Genocide Convention.

128. On 27 July 1993 Bosnia and Herzegovina filed a second request for provisional measures, followed on 10 August 1993 by a request for provisional measures of Serbia and Montenegro. Public hearings were held on 25 and 26 August 1993, and by an Order dated 13 September 1993 the Court reaffirmed the measures indicated earlier, adding that they should be immediately and effectively implemented.

129. On 5 August 1993 the President of the Court addressed a message to both parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects".

130. The Memorial of Bosnia and Herzegovina was filed within the extended time-limit of 15 April 1994.

131. On 26 June 1995, within the extended time-limit for the deposit of its Counter-Memorial, Serbia and Montenegro filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After Bosnia and Herzegovina had filed a written statement on the preliminary objections within the time-limit of 14 November 1995 fixed by the Court's Order of 14 July 1995, public hearings were held between 29 April and 3 May 1996. On 11 July 1996, the Court delivered its Judgment, rejecting the objections of Serbia and Montenegro; finding that, on the basis of Article IX of the Genocide Convention, it had jurisdiction to deal with the case; dismissing the additional basis of jurisdiction invoked by Bosnia and Herzegovina; and finding that the Application was admissible.

132. In the Counter-Memorial filed on 22 July 1997, Serbia and Montenegro submitted counter-claims requesting the Court to adjudge and declare that "Bosnia and Herzegovina [was] responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina" and that it "ha[d] the obligation to punish the persons held responsible" for these acts. It also asked the Court to rule that "Bosnia and Herzegovina [was] bound to take necessary measures so that the said acts would not be repeated in future" and "to eliminate all consequences of the violation of the obligations established by the . . . [Genocide] Convention".

133. By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

134. After each party had filed written observations, the Court, by an Order of 17 December 1997, held that Serbia and Montenegro's counter-claims were "admissible as such" and that they formed "part of the current proceedings" in the case; the Court also directed the parties to submit further written pleadings on the merits of their respective claims and fixed time-limits for the filing of a Reply by Bosnia and Herzegovina and of a Rejoinder by Serbia and Montenegro. Those time-limits having been extended at the request of each of the parties, the Reply of Bosnia and Herzegovina was eventually filed on 23 April 1998 and the Rejoinder of Serbia and Montenegro on 22 February 1999. In these pleadings, each of the parties contested the allegations made by the other.

135. Since then several exchanges of letters have taken place concerning new procedural difficulties in the case.

136. By an Order of 10 September 2001 the President of the Court placed on record the withdrawal by Serbia and Montenegro of the counter-claims submitted by that State in its Counter-Memorial. The Order was made after Serbia and Montenegro had informed the Court that it intended to withdraw its counter-claims and Bosnia and Herzegovina had indicated to the latter that it had no objection to that withdrawal.

137. It is recalled that, on 3 February 2003, the Court rendered its Judgment in the case concerning Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina), by which it found that the request for revision was inadmissible.

138. It is further recalled that, on 4 May 2001, Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) submitted a document to the Court, entitled "Initiative to the Court to reconsider ex officio Jurisdiction over Yugoslavia". The submissions presented in that document were, first that the Court had no jurisdiction ratione personae over Serbia and Montenegro, and secondly, that the Court should "suspend proceedings regarding the merits of the case until a decision on this Initiative", i.e. on the jurisdictional issue, had been rendered. In a letter dated 12 June 2003, the Registrar informed the parties in the case that the Court had decided that it could not effect such a suspension of the proceedings in the circumstances of the case.

5. Gabčíkovo-Nagymaros Project (Hungary/Slovakia)

139. On 2 July 1993, Hungary and Slovakia jointly notified to the Court a Special Agreement, signed between them on 7 April 1993, for the submission of certain issues arising out of differences regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo-Nagymaros barrage system.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> (a) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> (b) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> (c) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.
>
> (2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

140. Each of the parties filed a Memorial, a Counter-Memorial and a Reply within the respective time-limits of 2 May 1994, 5 December 1994 and 20 June 1995, as fixed by the Court or its President.

141. Hearings in the case were held between 3 March and 15 April 1997. From 1 to 4 April 1997, the Court paid a site visit (the first ever in its history) to the Gabčíkovo-Nagymaros Project, by virtue of Article 66 of the Rules of Court.

142. In its Judgment of 25 September 1997, the Court found that both Hungary and Slovakia had breached their legal obligations. It called on both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Budapest Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989.

143. On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional judgment in the case. Such an additional Judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

144. In its request, Slovakia stated that the parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended that on 5 March 1998 Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia maintained that it wanted the Court to determine the modalities for executing the Judgment.

145. As the basis for its request, Slovakia invoked Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court.

146. Hungary filed a written statement of its position on the request for an additional Judgment made by Slovakia within the time-limit of 7 December 1998 fixed by the President of the Court.

147. The Parties subsequently have resumed negotiations and have informed the Court on a regular basis of the progress made.

6. Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)

148. On 28 December 1998 the Republic of Guinea filed an Application instituting proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

149. According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unlawfully imprisoned by the authorities of that State" during two and a half months, "divested from his important investments, companies, bank accounts, movable and immovable properties, then expelled" on 2 February 1996 as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly with regard to mining) and by oil companies operating in that country (Zaire Shell, Zaire Mobil and Zaire Fina) by virtue of contracts concluded with businesses owned by him, Africom-Zaire and Africacontainers-Zaire.

150. As a basis of the Court's jurisdiction, Guinea invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, of 11 November 1998 and the declaration of the Democratic Republic of the Congo of 8 February 1989.

151. Guinea filed its Memorial within the time-limit as extended by the Court. On 3 October 2002, within the time-limit as extended for the deposit of its Counter-Memorial, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

152. By an Order of 7 November 2002 the Court fixed 7 July 2003 as the time-limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time-limit thus fixed.

7.-14. Legality of Use of Force (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom)

153. On 29 April 1999 Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) filed Applications instituting proceedings against Belgium, Canada, France, Germany, Italy, Netherlands, Portugal, Spain, United Kingdom and United States of America "for violation of the obligation not to use force".

154. In its Applications, Serbia and Montenegro pointed out that the above-mentioned States had committed "acts . . . by which [they] have violated [their] international obligation[s] banning the use of force against another State, not to intervene in the internal affairs of [that State]" and "not to violate [its] sovereignty"; "[their] obligation[s] to protect the civilian population and civilian objects in wartime [and] to protect the environment"; "[their] obligation[s] relating to free navigation on international rivers"; "[their] obligation[s] regarding fundamental human rights and freedoms"; and "[their] obligation[s] not to use prohibited weapons [and] not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". Serbia and Montenegro requested the Court to adjudge and declare inter alia that the States referred to above were "responsible for the violation of the above[-mentioned] international obligations" and that they were "obliged to provide compensation for the damage done".

155. As a basis for the jurisdiction of the Court, Serbia and Montenegro referred, in the Applications against Belgium, Canada, Netherlands, Portugal, Spain and the United Kingdom, to Article 36, paragraph 2, of the Statute of the Court and to Article IX of the Genocide Convention; and, in the Applications against France, Germany, Italy and the United States, to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court.

156. On the same day, Serbia and Montenegro also submitted a request for the indication of provisional measures in each of these cases.

157. After public hearings on the requests for the indication of provisional measures had been held between 10 and 12 May 1999, the Court, on 2 June 1999, delivered eight Orders, by which, in the cases (Serbia and Montenegro v. Belgium), (Serbia and Montenegro v. Canada), (Serbia and Montenegro v. France), (Serbia and Montenegro v. Germany), (Serbia and Montenegro v. Italy), (Serbia and Montenegro v. Netherlands), (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom), the Court, having found that it had no prima facie jurisdiction, rejected the requests for the indication of provisional measures submitted by Serbia and Montenegro and reserved the subsequent procedure for further decision. In the cases of (Serbia and Montenegro v. Spain) and (Serbia and Montenegro v. United States of America), the Court — having found that it manifestly lacked jurisdiction to entertain Serbia and Montenegro's Application and that, within a system of consensual jurisdiction, to maintain on the General List a case upon which it appeared certain that the Court would not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice — rejected Serbia and Montenegro's requests for the indication of provisional measures and ordered that those cases be removed from the List.

158. After the Memorial of Serbia and Montenegro, in each of the eight cases maintained on the Court's List, had been filed within the prescribed time-limit of 5 January 2000, each of the respondent States (Belgium, Canada, France, Germany, Italy, Netherlands, Portugal and United Kingdom) raised, on 5 July 2000, within the time-limit for the filing of its Counter-Memorial, certain preliminary objections of lack of jurisdiction and inadmissibility; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

159. In each of the cases, the Court, by an Order of 8 September 2000, fixed 5 April 2001 as the time-limit within which Serbia and Montenegro might present a written statement of its observations and submissions on the preliminary objections raised by the respondent State. At the request of Serbia and Montenegro, the Court, by Orders of 21 February 2001 and 20 March 2002, extended that time-limit twice, to 5 April 2002 and 7 April 2003 respectively. In each of the cases, Serbia and Montenegro's written statement on

the preliminary objections raised by the respondent State concerned was filed on 20 December 2002, within the time-limit thus extended.

160. Public hearings on the preliminary objections raised by each of the respondent States were held from 19 to 23 April 2004. At the conclusion of those hearings the parties presented the following final submissions to the Court:

For Belgium:

"In the case concerning the Legality of Use of Force (Serbia and Montenegro v. Belgium), for the reasons set out in the Preliminary Objections of Belgium dated 5 July 2000, and also for the reasons set out during the oral submissions on 19 and 22 April 2004, Belgium requests the Court to:

(a) remove the case brought by Serbia and Montenegro against Belgium from the List;

(b) in the alternative, to rule that the Court lacks jurisdiction in the case brought by Serbia and Montenegro against Belgium and/or that the case brought by Serbia and Montenegro against Belgium is inadmissible."

For Canada:

"The Government of Canada requests the Court to adjudge and declare that the Court lacks jurisdiction because the Applicant has abandoned all the grounds of jurisdiction originally specified in its Application pursuant to Article 38, paragraph 2, of the Rules and has identified no alternative grounds of jurisdiction.

In the alternative, the Government of Canada requests the Court to adjudge and declare that:

— the Court lacks jurisdiction over the proceedings brought by the Applicant against Canada on 29 April 1999, on the basis of the purported declaration of 25 April 1999;

— the Court also lacks jurisdiction on the basis of Article IX of the Genocide Convention;

— the new claims respecting the period beginning 10 June 1999 are inadmissible because they would transform the subject of the dispute originally brought before the Court; and,

— the claims in their entirety are inadmissible because the subject matter of the case requires the presence of essential third parties that are not before the Court."

For France:

"For the reasons it has set out orally and in its written pleadings, the French Republic requests the International Court of Justice to:

— principally, remove the case from the List;

— in the alternative, to decide that it lacks jurisdiction to rule on the Application filed by the Federal Republic of Yugoslavia against France;

— and, in the further alternative, to decide that the Application is inadmissible."

For Germany:

"Germany requests the Court to dismiss the Application for lack of jurisdiction and, additionally, as being inadmissible on the grounds it has stated in its Preliminary Objections and during its oral pleadings."

For Italy:

"For the reasons set out in its Preliminary Objections and oral statements, the Italian Government submits as follows:

May it please the Court to adjudge and declare,

Principally, that:

I. No decision is called for on the Application filed in the Registry of the Court on 29 April 1999 by Serbia and Montenegro against the Italian Republic for "violation of the obligation not to use force", as supplemented by the Memorial filed on 5 January 2000, inasmuch as there is no longer any dispute between Serbia and Montenegro and the Italian Republic or as the subject-matter of the dispute has disappeared.

In the alternative, that:

II. The Court lacks jurisdiction ratione personarum to decide the present case, since Serbia and Montenegro was not a party to the Statute when the Application was filed and also does not consider itself a party to a "treaty in force" such as would confer jurisdiction on the Court, in accordance with Article 35, paragraph 2, of the Statute;

III. The Court lacks jurisdiction ratione materiae to decide the present case, since Serbia and Montenegro does not regard itself as bound by Article IX of the Genocide Convention, to which it made a reservation upon giving notice of accession in March 2001 and since, in any event, the dispute arising from the terms of the Application instituting proceedings, as supplemented by the Memorial, is not a dispute relating to "the interpretation, application or fulfilment" of the Genocide Convention, as provided in Article IX;

IV. Serbia and Montenegro's Application, as supplemented by the Memorial, is inadmissible in its entirety, inasmuch as Serbia and Montenegro seeks thereby to obtain from the Court a decision regarding the legality of action undertaken by subjects of international law not present in the proceedings or not all so present;

V. Serbia and Montenegro's Application is inadmissible with respect to the eleventh submission, mentioned for the first time in the Memorial, inasmuch as Serbia and Montenegro seeks thereby to introduce a dispute altogether different from the original dispute deriving from the Application."

For the Netherlands:

"May it please the Court to adjudge and declare that

The Court has no jurisdiction or should decline to exercise jurisdiction as the parties in fact agree that the Court has no jurisdiction or as there is no longer a dispute between the parties on the jurisdiction of the Court

Alternatively,

— Serbia and Montenegro is not entitled to appear before the Court;

— The Court has no jurisdiction over the claims brought against the Netherlands by Serbia and Montenegro; and/or

— The claims brought against the Netherlands by the Serbia and Montenegro are inadmissible."

For Portugal:

"For the reasons given in the oral statements presented on behalf of Portugal during the present hearings and in the Preliminary Objections of 5 July 2000, the final submissions of the Portuguese Republic are as follows:

May it please the Court to adjudge and declare that

(i) The Court is not called upon to give a decision on the claims of Serbia and Montenegro

Alternatively

(ii) The Court lacks jurisdiction, either

(a) under Article 36, paragraph 2, of the Statute;

(b) under Article IX of the Genocide Convention;

and

The claims are inadmissible."

For the United Kingdom:

"For the reasons given in our written Preliminary Objections and at the oral hearing, the United Kingdom requests the Court:

— to remove the case from its List,

or, in the alternative,

— to adjudge and declare that:

it lacks jurisdiction over the claims brought against the United Kingdom by Serbia and Montenegro

and/or

the claims brought against the United Kingdom by Serbia and Montenegro are inadmissible."

For Serbia and Montenegro:

"For the reasons given in its pleadings and in particular in its Written Observations, subsequent correspondence with the Court and at the oral hearing, Serbia and Montenegro requests the Court

— to adjudge and declare on its jurisdiction ratione personae the present cases;

— to dismiss the remaining preliminary objections of the respondent States, and to order proceedings on the merits if it finds it has jurisdiction ratione personae."

161. At the time of the preparation of this report, the Court was deliberating its Judgment.

15. Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)

162. On 23 June 1999 the Democratic Republic of the Congo filed an Application instituting proceedings against Uganda for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the OAU".

163. In its Application, the Democratic Republic of the Congo contended that "such armed aggression . . . ha[d] involved inter alia violation of the sovereignty and territorial integrity of the [Democratic Republic of the Congo], violations of international humanitarian law and massive human rights violations". The Democratic Republic of the Congo sought "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it also sought "compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [it], in respect of which the [Democratic Republic of the Congo] reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed".

164. Consequently, the Democratic Republic of the Congo requested the Court to adjudge and declare that Uganda was guilty of an act of aggression contrary to Article 2, paragraph 4, of the United Nations Charter; that it was committing repeated violations of the Geneva Convention of 1949 and the Additional Protocols of 1977 and also guilty of massive human rights violations in defiance of the most basic customary law; that more specifically, by taking forcible possession of the Inga hydroelectric dam, and deliberately and regularly causing massive electrical power cuts, Uganda had rendered itself responsible for very heavy losses of life among the 5 million inhabitants of the city of Kinshasa and the surrounding area; and that by shooting down, on 9 October 1998 at Kindu, a Boeing 727 the property of Congo Airlines, thereby causing the death of 40 civilians. Uganda had also violated certain conventions concerning international civil aviation. The Democratic Republic of the Congo further asked the Court to adjudge and declare that all Ugandan armed forces and Ugandan nationals, both natural and legal persons, should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

165. The Democratic Republic of the Congo invoked as basis for the Court's jurisdiction the declarations whereby both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court).

166. Taking into account the agreement of the parties, the Court, by an Order of 21 October 1999, fixed 21 July 2000 as the time-limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the Democratic Republic of the Congo was filed within the time-limit thus prescribed.

167. On 19 June 2000 the Democratic Republic of the Congo filed a request for the indication of provisional measures, stating that "since 5 June [2000], the resumption of fighting between the armed troops of . . . Uganda and another foreign army ha[d] caused considerable damage to the Congo and to its population", and "these tactics ha[d] been unanimously condemned, in particular by the United Nations Security Council". By letters of the same date, the President of the Court, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

168. Public hearings on the request for the indication of provisional measures were held on 26 and 28 June 2000. At a public sitting held on 1 July 2000, the Court rendered its Order, by which it unanimously found that both parties must, "forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve"; "forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000"; and "forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law".

169. Within the time-limit of 21 April 2001 fixed by the Court's Order of 21 October 1999, Uganda filed its Counter-Memorial. The Counter-Memorial contained three counter-claims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement. Uganda asked that the issue of reparation be reserved for a subsequent stage of the proceedings. By an Order of 29 November 2001 the Court found that the first two of the counter-claims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a Reply and Uganda a Rejoinder, addressing the claims of both parties, and fixed 29 May 2002 as the time-limit for the filing of the Reply and 29 November 2002 for the Rejoinder. Further, in order to ensure strict equality between the parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Uganda counter-claims, in an additional pleading to be the subject of a subsequent Order. The Reply was filed

within the time-limit fixed. By an Order of 7 November 2002, the Court extended the time-limit for the filing by Uganda of its Rejoinder and fixed 6 December 2002 as the new time-limit. The Rejoinder was filed within the time-limit as thus extended.

170. By an Order of 29 January 2003, the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counter-claims submitted by Uganda, and fixed 28 February 2003 as the time-limit for its filing. That written pleading was filed within the time-limit fixed.

171. As indicated in the previous report of the Court, the Court had fixed 10 November 2003 as the date for the opening of the hearings.

172. By a letter dated 5 November 2003, the Democratic Republic of the Congo raised the question whether the hearings might be adjourned to a later date, in April 2004, in order to enable the diplomatic negotiations engaged by the parties to be conducted in an atmosphere of calm. By a letter of 6 November 2003, Uganda indicated that it supported the proposal and adopted the request of the Congo.

173. By a letter dated 6 November 2003, the Registrar informed the parties that the Court, acting under Article 54, paragraph 1, of the Rules of Court, and taking account of the representations made to it by the parties, had decided that the opening of the oral proceedings would be postponed but had also decided that it was impossible to fix a date in April 2004 for the adjourned hearings. As the Court's judicial calendar until well into 2004 had been adopted some time before, providing for the hearing of, and deliberation on, a number of other cases, a new date for the opening of oral proceedings in this case would have to be fixed subsequently.

16. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro)

174. On 2 July 1999 the Republic of Croatia filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) for violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide alleged to have been committed between 1991 and 1995.

175. In its Application, Croatia contended that "by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia, [Serbia and Montenegro] is liable for the 'ethnic cleansing' of Croatian citizens from these areas . . . as well as extensive property destruction — and is required to provide reparation for the resulting damage". Croatia went on to state that "in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as . . . Croatia reasserted its legitimate governmental authority . . . [Serbia and Montenegro] engaged in conduct amounting to a second round of 'ethnic cleansing'".

176. Accordingly, Croatia requested the Court to adjudge and declare that Serbia and Montenegro "has breached its legal obligations" to Croatia under the Genocide Convention and that it "has an obligation to pay to . . . Croatia, in its own right and as parens patriae for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court".

177. As a basis for the jurisdiction of the Court, Croatia invoked Article IX of the Genocide Convention, to which, it stated, both Croatia and Serbia and Montenegro are parties.

178. On 14 March 2001, within the time-limit as extended by the Court, Croatia filed its Memorial. On 11 September 2002, within the extended time-limit for the filing of its Counter-Memorial, Serbia and Montenegro filed certain preliminary objections to jurisdiction and admissibility. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). On 25 April 2003, within the time-limit fixed by an Order of the Court of 14 November 2002, Croatia filed a written statement of its observations and submissions on the preliminary objections raised by Serbia and Montenegro.

17. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

179. On 8 December 1999 the Republic of Nicaragua filed an Application instituting proceedings against the Republic of Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

180. In its Application, Nicaragua stated inter alia that it had for decades "maintained the position that its maritime Caribbean border with Honduras has not been determined", while Honduras' position was said to be that

> "there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in [an Arbitral Award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras, which was found valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river".

According to Nicaragua, "the position adopted by Honduras . . . has brought repeated confrontations and mutual capture of vessels of both nations in and around the general border area". Nicaragua further stated that "diplomatic negotiations have failed".

181. Nicaragua therefore requested the Court "to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary".

182. As a basis for the Court's jurisdiction, Nicaragua invoked Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which, it stated, both Nicaragua and Honduras are parties, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

183. By an Order of 21 March 2000 the Court fixed 21 March 2001 and 21 March 2002 as the respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Honduras. Those pleadings were duly filed within the prescribed time-limits.

184. Copies of the pleadings and documents annexed have been made available to the Governments of Colombia and of Jamaica, at their respective requests.

185. By an Order of 13 June 2002, the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Honduras and fixed the following time-limits for the filing of these pleadings: 13 January 2003 for the Reply, and 13 August 2003 for the Rejoinder. The Reply of Nicaragua and the Rejoinder of Honduras were filed within the time-limits thus fixed.

18. Certain Property (Liechtenstein v. Germany)

186. On 1 June 2001 Liechtenstein filed an Application instituting proceedings against Germany relating to a dispute concerning "decisions of Germany, in and after 1998, to treat certain property of Liechtenstein nationals as German assets having been 'seized for the purposes of reparation or restitution, or as a result of the state of war' — i.e., as a consequence of World War II —, without ensuring any compensation for the loss of that property to its owners, and to the detriment of Liechtenstein itself".

187. In its Application, Liechtenstein requested the Court "to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered". Liechtenstein further requested "that the nature and amount of such reparation should, in the absence of agreement between the parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

188. As a basis for the Court's jurisdiction, Liechtenstein invoked Article 1 of the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957.

189. By an Order of 28 June 2001, the Court fixed 28 March 2002 and 27 December 2002, respectively, as the time-limits for the filing of a Memorial by Liechtenstein and of a Counter-Memorial by Germany. The Memorial was filed within the time-limit thus fixed.

190. On 27 June 2002, Germany filed certain preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). Liechtenstein filed a written statement of its observations and submissions with regard to the preliminary objections raised by Germany, within the time-limit of 15 November 2002, as fixed by the President of the Court.

191. Public hearings on the preliminary objections raised by Germany were held from 14 to 18 June 2004. At the conclusion of those hearings the parties presented the following final submissions to the Court:

For Germany:

"Germany requests the Court to adjudge and declare that:

— it lacks jurisdiction over the claims brought against Germany by the Principality of Liechtenstein, referred to it by the Application of Liechtenstein of 30 May 2001,

and that

— the claims brought against Germany by the Principality of Liechtenstein are inadmissible to the extent specified in its Preliminary Objections."

For Liechtenstein:

"The Principality of Liechtenstein respectfully requests the Court:

(a) to adjudge and declare that the Court has jurisdiction over the claims presented in its Application and that they are admissible;

and, accordingly

(b) to reject the Preliminary Objections of Germany in their entirety."

19. Territorial and Maritime Dispute (Nicaragua v. Colombia)

192. On 6 December 2001 Nicaragua filed an Application instituting proceedings against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean.

In its Application, Nicaragua requested the Court to adjudge and declare:

"First, that . . . Nicaragua has sovereignty over the islands of Providencia, San Andres and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);

Second, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary."

193. Nicaragua further indicated that it "reserves the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the Islands of San Andres and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title". It also "reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua".

194. As a basis for the Court's jurisdiction, Nicaragua invoked Article 36, paragraph 2, of the Statute of the Court and Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which both Nicaragua and Colombia are parties.

195. Copies of the pleadings and documents annexed have been made available to the Government of Honduras, at its request.

196. By an Order of 26 February 2002, the Court fixed 28 April 2003 and 28 June 2004 as the time-limits for the filing of a Memorial by Nicaragua and of a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time-limit thus fixed.

197. On 21 July 2003, Colombia filed preliminary objections to the jurisdiction of the Court. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). Nicaragua filed a written statement of its observations and submissions on the preliminary objections raised by Colombia, within the time-limit of 26 January 2004, fixed by the Court in its Order of 24 September 2003.

20. Frontier Dispute (Benin/Niger)

198. On 3 May 2002 Benin and Niger jointly notified the Court of a Special Agreement, which was signed between them on 15 June 2001 in Cotonou and entered into force on 11 April 2002.

199. Under Article 1 of that Special Agreement, the parties agreed to submit their boundary dispute to a Chamber to be formed by the Court; they also agreed that pursuant to Article 26, paragraph 2, of the Statute of the Court, and that each of them would choose a judge ad hoc.

Article 2 of the Special Agreement stated the subject-matter of the dispute in the following terms:

> "The Court is requested to:
>
> (a) determine the course of the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector;
>
> (b) specify which State owns each of the islands in the said river, and in particular Lété Island;
>
> (c) determine the course of the boundary between the two States the River Mekrou sector."

Finally, Article 10 contained a "special undertaking" as follows:

> "Pending the judgment of the Chamber, the Parties undertake to preserve peace, security and quiet among the peoples of the two States."

200. By an Order of 27 November 2002, the Court, after its President had been informed of the view of the parties on the composition of the chamber and had reported to it, decided to accede to the request of both parties that it should form a special chamber of five judges and formed a Chamber of three Members of the Court together with the two judges ad hoc chosen by the parties, as follows: President Guillaume, Judges Ranjeva and Kooijmans, and Judges ad hoc Bedjaoui (chosen by Niger) and Bennouna (chosen by Benin).

201. The Court further fixed 27 August 2003 as the time-limit for the filing of a Memorial by each Party. Those Memorials were filed within the time-limit thus fixed.

202. In an Order of 11 September 2003 the President of the Chamber fixed 28 May 2004 as the time-limit for the filing of a Counter-Memorial by each of the parties. Those Counter-Memorials were filed within the time-limit thus fixed.

203. On Thursday 20 November 2003 the Chamber held its first public sitting, the aim of which was to enable the two judges ad hoc to make the solemn declaration required by the Statute and the Rules of Court.

204. By an Order of 9 July 2004, the President of the Chamber, taking into account the wish of the parties to be authorized to submit a third pleading as provided for by the Special Agreement, authorized the submission of a Reply by each of the parties and fixed 17 December 2004 as the time-limit for the filing of that pleading.

21. Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)

205. On 28 May 2002, the Democratic Republic of the Congo filed an Application instituting proceedings against Rwanda in respect of a dispute concerning:

> "massive, serious and flagrant violations of human rights and of international humanitarian law" resulting "from acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of the Congo in flagrant breach of the sovereignty and territorial integrity of the [latter], as guaranteed by the United Nations and OAU Charters".

206. In its Application, the Democratic Republic of the Congo stated that Rwanda has been guilty of "armed aggression" from August 1998 to the present day. According to it, that aggression has resulted in "large-scale human slaughter" in South Kivu, Katanga Province and the Eastern Province, "rape and sexual assault of women", "assassinations and kidnapping of political figures and human rights activists", "arrests, arbitrary detentions, inhuman and degrading treatment", "systematic looting of public and private institutions, seizure of property belonging to civilians", "human rights violations committed by the invading Rwandan troops and their 'rebel' allies in the major towns in the East" of the Democratic Republic of the Congo, and "destruction of fauna and flora" of the country.

207. In consequence, the Democratic Republic of the Congo requested the Court to adjudge and declare that by violating the human rights which are the goal pursued by the United Nations through the maintenance of international peace and security, Rwanda had violated and was violating the United Nations Charter as well as Articles 3 and 4 of the OAU Charter; that it further had violated a number of instruments protecting human rights; that, by shooting down a Boeing 727 owned by Congo Airlines on 9 October 1998 in Kindu, thereby causing the death of 40 civilians, Rwanda had also violated certain conventions concerning international civil aviation; and that, by engaging in killing, slaughter, rape, throat-slitting, and crucifying, Rwanda was guilty of genocide against more than 3,500,000 Congolese, including the victims of the recent massacres in the city of Kisangani, and had violated the sacred right to life provided for in certain instruments protecting human rights as well as the Genocide Convention. It further asked the Court to adjudge and declare that all Rwandan armed forces should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

208. In its Application the Democratic Republic of the Congo, in order to found the jurisdiction of the Court, relied on a number of compromissory clauses in treaties.

209. On the same day, 28 May 2002, the Democratic Republic of the Congo submitted a request for the indication of provisional measures. Public hearings on the request for provisional measures were held on 13 and 14 June 2002. On 10 July 2002, the Court delivered its Order, by which, having found that it had no prima facie jurisdiction, it rejected the request of the Democratic Republic of the Congo. The Court, in that Order, also rejected the submissions by the Rwandese Republic seeking the removal of the case from the Court's List.

210. By an Order of 18 September 2002, the Court decided, in accordance with Article 79, paragraphs 2 and 3, of the revised Rules of Court, that the written pleadings would first be addressed to the questions of the jurisdiction of the Court and the admissibility of the Application and fixed 20 January 2003 as the time-limit for the Memorial of Rwanda and 20 May 2003 for the Counter-Memorial of the Democratic Republic of the Congo. Those pleadings were filed within the time-limits thus fixed.

22. Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras)

211. On 10 September 2002, El Salvador filed an Application for revision of the Judgment delivered on 11 September 1992 by the Chamber of the Court in the case concerning Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening). El Salvador indicated that "the sole purpose of the application is to seek revision of the course of the boundary decided by the Court for the sixth disputed sector of the land boundary between El Salvador and Honduras". El Salvador based its Application for revision on Article 61, paragraph 1, of the Statute of the Court, the text of which is reproduced in paragraph 204 above.

212. In the Application El Salvador alleged that from the reasons given by the Chamber to establish the boundary line in the sixth sector, the following could be inferred:

> "(1) That a decisive factor in dismissing El Salvador's claim to a boundary along the old and original riverbed was the lack of evidence of an avulsion of the Goascorán River during the colonial period, and
>
> (2) That a decisive factor that persuaded the Chamber to accept Honduras's claim to a land boundary that follows the current course of the Goascorán, purported to be the course of the river at the time of independence in 1821, was the chart and the descriptive report of the Gulf of Fonseca that Honduras presented and that were supposedly drawn in 1796, as part of the expedition of the brigantine El Activo."

213. El Salvador claimed that it had obtained scientific, technical, and historical evidence which "demonstrates that the old course of the Goascorán River debouched in the Gulf of Fonseca at the Estero 'La Cutú', and that the river abruptly changed course in 1762". It contended that this evidence, "which was not available to the Republic of El Salvador prior to the date of the Judgment, can be classified, for purposes of the revision, as a new fact, with a character such that it lays the case open to revision".

214. El Salvador further claimed that "in the six months prior to making [its] application, [it] obtained cartographic and documentary evidence demonstrating the unreliability of the documents that form the backbone of the Chamber's ratio decidendi. A new chart and a new report from the expedition of the brig El Activo have been discovered".

El Salvador concluded that:

> "For purposes of this revision, we have, then, a second new fact, whose implications for the Judgment have to be considered once the Application for revision is admitted. Because the evidentiary value of the 'Carta Esférica' and the report of the El Activo expedition is in question, the use of the Saco negotiations (1880-1884) for corroborative purposes becomes worthless, a problem compounded by what the Republic of El Salvador considers to be the Chamber's erroneous assessment of those negotiations. In reality, far from reinforcing each other, the El Activo documents and the Saco documents contradict each other."

215. According to El Salvador the following assertions could be made on the basis of the scientific and historical evidence now available: "(a) that the present-day course of the Goascorán River was not the course of the river in 1880-1884, much less in 1821; (b) that the old riverbed was the recognized boundary; and (c) that this riverbed was north of the Bay of La Unión, whose entire coastline belonged to the Republic of El Salvador".

For all these reasons, El Salvador requested the Court:

> "(a) To proceed to form the Chamber that will hear the application for revision of the Judgment, bearing in mind the terms that El Salvador and Honduras agreed upon in the Special Agreement of 24 May 1986;

(b) To declare the application of the Republic of El Salvador admissible on the grounds of the existence of new facts of such a character as to lay the case open to revision under Article 61 of the Statute of the Court; and

(c) Once the application is admitted, to proceed to the revision of the Judgment of 11 September 1992, so that a new Judgment will determine the boundary line in the sixth disputed sector of the land frontier between El Salvador and Honduras to be as follows:

'Starting from the old mouth of the Goascorán river in the inlet known as the La Cutú Estuary situated at latitude 13° 22' 00" N and longitude 87° 41' 25" W, the frontier follows the old course of the Goascorán river for a distance of 17,300 meters as far as the place known as the Rompición de los Amates situated at latitude 13° 26' 29" N and longitude 87° 43' 25" W, which is where the Goascorán river changed its course.'"

216. By an Order of 27 November 2002, the Court, after the President had been informed of the view of the parties on the composition of the chamber and had reported to the Court, decided to accede to the request of both parties that it should form a special chamber of five judges and formed a Chamber of three Members of the Court together with the two judges ad hoc chosen by the parties, as follows: President Guillaume, Judges Rezek and Buergenthal, and Judges ad hoc Torres Bernárdez (chosen by Honduras) and Paolillo (chosen by El Salvador).

217. The Court further fixed 1 April 2003 as the time-limit for the filing of written observations by Honduras on the admissibility of the Application for revision. Those observations were deposited within the time-limit thus prescribed.

218. Hearings on the admissibility of the request for revision were held from 8 to 12 September 2003. At the conclusion of those hearings the parties presented the following submissions to the Court:

For El Salvador:

"The Republic of El Salvador respectfully requests the Chamber, rejecting all contrary claims and submissions to adjudge and declare:

1. The Application of the Republic of El Salvador is admissible based on the existence of new facts of such a nature as to leave the case open to revision, pursuant to Article 61 of the Statute of the Court, and

2. Once the request is admitted that it proceed to a revision of the Judgment of 11 September 1992, so that a new judgment fixes the boundary line in the sixth disputed sector of the land boundary between El Salvador and Honduras as follows:

'Starting at the old mouth of the Goascorán River at the entry point known as the Estero de la Cutú, located at latitude 13 degrees 22 minutes 00 seconds north and longitude 87 degrees 41 minutes 25 seconds west, the border follows the old bed of the Goascorán River for a distance of 17,300 metres up to the place known as Rompición de Los Amates, located at latitude 13 degrees 26 minutes 29 seconds north and longitude 87 degrees 43 minutes 25 seconds west, which is where the Goascorán River changed course.'"

For Honduras:

"The Government of the Republic of Honduras requests the Chamber to declare the inadmissibility of the Application for Revision presented on 10 September 2002 by El Salvador."

218bis. On 18 December 2003 the Chamber delivered its Judgment, the operative paragraph of which reads as follows:

"For these reasons,

THE CHAMBER,

By four votes to one,

Finds that the Application submitted by the Republic of El Salvador for revision, under Article 61 of the Statute of the Court, of the Judgment given on 11 September 1992, by the Chamber of the Court formed to deal with the case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening), is inadmissible.

IN FAVOUR: Judge Guillaume, President of the Chamber; Judges Rezek, Buergenthal; Judge ad hoc Torres Bernárdez;

AGAINST: Judge ad hoc Paolillo."

Judge ad hoc Paolillo appended a dissenting opinion to the Judgment of the Chamber.

23. Avena and Other Mexican Nationals (Mexico v. United States of America)

219. On 9 January 2003, the United Mexican States instituted proceedings before the Court against the United States of America in a dispute concerning alleged violations of Articles 5 and 36 of the Vienna Convention on Consular Relations of 24 April 1963 with respect to 54 Mexican nationals who had been sentenced to death in the States of California, Texas, Illinois, Arizona, Arkansas, Florida, Nevada, Ohio, Oklahoma and Oregon.

220. In its Application, Mexico maintained that the 54 cases illustrate the systemic nature of the United States violation of its obligation under Article 36 of the Vienna Convention to inform nationals of Mexico of their right to consular assistance and to provide relief adequate to redress such violation. Mexico claimed that, in at least 49 of these cases, it had found no evidence that the competent United States authorities attempted to comply with Article 36 before Mexico's nationals were tried, convicted, and sentenced to death. It further noted that in four cases some attempt apparently was made to comply with Article 36, but that the authorities still failed to provide the required notification "without delay"; and that in one case the detained national was informed of his rights to consular notification and access in connection with immigration proceedings, but not in connection with pending capital charges. In the Application each case, catalogued by state, is then briefly described.

Accordingly, Mexico asked the Court to adjudge and declare:

"(1) that the United States, in arresting, detaining, trying, convicting, and sentencing the 54 Mexican nationals on death row described in this Application, violated its international legal obligations to Mexico, in its own right and in the exercise of its right of consular protection of its nationals, as provided by Articles 5 and 36, respectively of the Vienna Convention;

(2) that Mexico is therefore entitled to restitutio in integrum;

(3) that the United States is under an international legal obligation not to apply the doctrine of procedural default, or any other doctrine of its municipal law, to preclude the exercise of the rights afforded by Article 36 of the Vienna Convention;

(4) that the United States is under an international legal obligation to carry out in conformity with the foregoing international legal obligations any future detention of or criminal proceedings against the 54 Mexican nationals on death row or any other Mexican national in its territory, whether by a constituent, legislative, executive, judicial or other power, whether that power holds a superior or a subordinate position in the organization of the United States, and whether that power's functions are international or internal in character;

(5) that the right to consular notification under the Vienna Convention is a human right;

and that, pursuant to the foregoing international legal obligations,

(1) the United States must restore the status quo ante, that is, re-establish the situation that existed before the detention of, proceedings against, and convictions and sentences of, Mexico's nationals in violation of the United States international legal obligations;

(2) the United States must take the steps necessary and sufficient to ensure that the provisions of its municipal law enable full effect to be given to the purposes for which the rights afforded by Article 36 are intended;

(3) the United States must take the steps necessary and sufficient to establish a meaningful remedy at law for violations of the rights afforded to Mexico and its nationals by Article 36 of the Vienna Convention, including by barring the imposition, as a matter of municipal law, of any procedural penalty for the failure timely to raise a claim or defence based on the Vienna Convention where competent authorities of the United States have breached their obligation to advise the national of his or her rights under the Convention; and

(4) the United States, in light of the pattern and practice of violations set forth in this Application, must provide Mexico a full guarantee of the non-repetition of the illegal acts."

221. In its Application Mexico invoked as a basis for the Court's jurisdiction Article I of the Vienna Convention's Optional Protocol concerning the Compulsory Settlement of Disputes, which provides that "disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice".

"In view of the extreme gravity and immediacy of the threat that authorities in the United States will execute a Mexican citizen in violation of obligations the United States owes to [it]", Mexico also filed, on 9 January 2003, an urgent request for the indication of provisional measures, asking that, pending final judgment in the case, the Court indicate that the United States take all measures necessary to ensure that no Mexican national be executed and that no execution dates be set for any Mexican national; that the United States report to the Court the actions it has taken in that respect; and that it ensure that no action is taken that might prejudice the rights of the United Mexican States or its nationals with respect to any decision this Court may render on the merits of the case.

222. At the hearings held on 21 January 2003, Mexico confirmed its request for the indication of provisional measures, while the United States asked the Court to reject that request and not to indicate any such measures.

223. On 5 February 2003, the Court unanimously adopted an Order indicating provisional measures. In that Order, it decided that the United States of America should take "all measures necessary" to ensure that Mr. César Roberto Fierro Reyna, Mr. Roberto Moreno Ramos and Mr. Osvaldo Torres Aguilera, of Mexican nationality, are not executed pending a final judgment of the Court; that the United States of America should inform the Court of all measures taken in implementation of that Order; and that the Court would remain seised of the matters which formed the subject of the Order until it had rendered its final judgment.

224. By a separate Order, also dated 5 February 2003, the Court, taking into account the views of the parties, fixed 6 June 2003 as the time-limit for the filing of a Memorial by Mexico and 6 October 2003 as the time-limit for the filing of a Counter-Memorial by the United States of America. By an Order of 22 May 2003, the President of the Court, at the joint request of the parties, extended these time-limits to 20 June 2003 for the Memorial of Mexico and to 3 November 2003 for the Counter-Memorial of the United States. The Memorial and Counter-Memorial were filed within the time-limits thus extended.

225. Public hearings were held from 15 to 19 December 2003. At the conclusion of those hearings the parties presented the following final submissions to the Court:

For Mexico:

"The Government of Mexico respectfully requests the Court to adjudge and declare:

(1) That the United States of America, in arresting, detaining, trying, convicting, and sentencing the 52 Mexican nationals on death row described in Mexico's Memorial, violated its international legal obligations to Mexico, in its own right and in the exercise of its right to diplomatic protection of its nationals, by failing to inform, without delay, the 52 Mexican nationals after their arrest of their right to consular notification and access under Article 36 (1) (b) of the Vienna Convention on Consular Relations, and by depriving Mexico of its right to provide consular protection and the 52 nationals' rights to receive such protection as Mexico would provide under Article 36 (1) (a) and (c) of the Convention;

(2) That the obligation in Article 36 (1) of the Vienna Convention requires notification of consular rights and a reasonable opportunity for consular access before the competent authorities of the receiving State take any action potentially detrimental to the foreign national's rights;

(3) That the United States of America violated its obligations under Article 36 (2) of the Vienna Convention by failing to provide meaningful and effective review and reconsideration of convictions and sentences impaired by a violation of Article 36 (1); by substituting for such review and reconsideration clemency proceedings; and by applying the "procedural default" doctrine and other municipal law doctrines that fail to attach legal significance to an Article 36 (1) violation on its own terms;

(4) That pursuant to the injuries suffered by Mexico in its own right and in the exercise of diplomatic protection of its nationals, Mexico is entitled to full reparation for those injuries in the form of restitutio in integrum;

(5) That this restitution consists of the obligation to restore the status quo ante by annulling or otherwise depriving of full force or effect the convictions and sentences of all 52 Mexican nationals;

(6) That this restitution also includes the obligation to take all measures necessary to ensure that a prior violation of Article 36 shall not affect the subsequent proceedings;

(7) That to the extent that any of the 52 convictions or sentences are not annulled, the United States shall provide, by means of its own choosing, meaningful and effective review and reconsideration of the convictions and sentences of the 52 nationals, and that this obligation cannot be satisfied by means of clemency proceedings or if any municipal law rule or doctrine inconsistent with paragraph (3) above is applied; and

(8) That the United States of America shall cease its violations of Article 36 of the Vienna Convention with regard to Mexico and its 52 nationals and shall provide appropriate guarantees and assurances that it shall take measures sufficient to achieve increased compliance with Article 36 (1) and to ensure compliance with Article 36 (2)."

For the United States of America:

"On the basis of the facts and arguments made by the United States in its Counter-Memorial and in these proceedings, the Government of the United States of America requests that the Court, taking into account that the United States has conformed its conduct to this Court's Judgment in LaGrand, not only with respect to German nationals but, consistent with the declaration of the President of the Court in that case, to all detained foreign nationals, adjudge and declare that the claims of the United Mexican States are dismissed."

On 31 March 2004 the Court delivered its Judgment, the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

(1) By thirteen votes to two,

Rejects the objection by the United Mexican States to the admissibility of the objections presented by the United States of America to the jurisdiction of the Court and the admissibility of the Mexican claims;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka;

AGAINST: Judge Parra-Aranguren; Judge ad hoc Sepúlveda;

(2) Unanimously,

Rejects the four objections by the United States of America to the jurisdiction of the Court;

(3) Unanimously,

Rejects the five objections by the United States of America to the admissibility of the claims of the United Mexican States;

(4) By fourteen votes to one,

Finds that, by not informing, without delay upon their detention, the 51 Mexican nationals referred to in paragraph 106 (1) above of their rights under Article 36, paragraph 1 (b), of the Vienna Convention on Consular Relations of 24 April 1963, the United States of America breached the obligations incumbent upon it under that subparagraph;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; Judge ad hoc Sepúlveda;

AGAINST: Judge Parra-Aranguren;

(5) By fourteen votes to one,

Finds that, by not notifying the appropriate Mexican consular post without delay of the detention of the 49 Mexican nationals referred to in paragraph 106 (2) above and thereby depriving the United Mexican States of the right, in a timely fashion, to render the assistance provided for by the Vienna Convention to the individuals concerned, the United States of America breached the obligations incumbent upon it under Article 36, paragraph 1 (b);

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; Judge ad hoc Sepúlveda;

AGAINST: Judge Parra-Aranguren;

(6) By fourteen votes to one,

Finds that, in relation to the 49 Mexican nationals referred to in paragraph 106 (3) above, the United States of America deprived the United Mexican States of the right, in a timely fashion, to communicate with and have access to those nationals and to visit them in detention, and thereby breached the obligations incumbent upon it under Article 36, paragraph 1 (a) and (c), of the Convention;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; Judge ad hoc Sepúlveda;

AGAINST: Judge Parra-Aranguren;

(7) By fourteen votes to one,

Finds that, in relation to the 34 Mexican nationals referred to in paragraph 106 (4) above, the United States of America deprived the United Mexican States of the right, in a timely fashion, to arrange for legal representation of those nationals, and thereby breached the obligations incumbent upon it under Article 36, paragraph 1 (c), of the Convention;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; Judge ad hoc Sepúlveda;

AGAINST: Judge Parra-Aranguren;

(8) By fourteen votes to one,

Finds that, by not permitting the review and reconsideration, in the light of the rights set forth in the Convention, of the conviction and sentences of Mr. César Roberto Fierro Reyna, Mr. Roberto Moreno Ramos and Mr. Osvaldo Torres Aguilera, after the violations referred to in subparagraph (4) above had been established in respect of those individuals, the United States of America breached the obligations incumbent upon it under Article 36, paragraph 2, of the Convention;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; Judge ad hoc Sepúlveda;

AGAINST: Judge Parra-Aranguren;

(9) By fourteen votes to one,

Finds that the appropriate reparation in this case consists in the obligation of the United States of America to provide, by means of its own choosing, review and reconsideration of the convictions and sentences of the Mexican nationals referred to in subparagraphs (4), (5), (6) and (7) above, by taking account both of the violation of the rights set forth in Article 36 of the Convention and of paragraphs 138 to 141 of this Judgment;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; Judge ad hoc Sepúlveda;

AGAINST: Judge Parra-Aranguren;

(10) Unanimously,

Takes note of the commitment undertaken by the United States of America to ensure implementation of the specific measures adopted in performance of its obligations under Article 36, paragraph 1 (b), of the Vienna Convention; and finds that this commitment must be regarded as meeting the request by the United Mexican States for guarantees and assurances of non-repetition;

(11) Unanimously,

Finds that, should Mexican nationals nonetheless be sentenced to severe penalties, without their rights under Article 36, paragraph 1 (b), of the Convention having been respected, the United States of America shall provide, by means of its own choosing, review and reconsideration of the conviction and sentence, so as to allow full weight to be given to the violation of the rights set forth in the Convention, taking account of paragraphs 138 to 141 of this Judgment."

President Shi and Vice-President Ranjeva appended declarations to the Judgment of the Court; Judges Vereshchetin, Parra-Aranguren and Tomka and Judge ad hoc Sepúlveda appended separate opinions.

24. Certain Criminal Proceedings in France (Republic of the Congo v. France)

226. On 9 December 2002, the Republic of the Congo filed an Application by which it sought to institute proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Mr. Denis Sassou Nguesso, the Congolese Minister of the Interior, Mr. Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating judge of the Meaux tribunal de grande instance had issued a warrant for the President of the Republic of the Congo to be examined as witness.

227. The Republic of the Congo contended that by "attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country", France violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations . . . exercise its authority on the territory of another State". The Republic of the Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as witness in the case, France violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

228. In its Application, the Republic of the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which will certainly be given". In accordance with this provision, the Application by the Republic of the Congo was transmitted to the French Government and no further action was taken in the proceedings at that stage.

229. By a letter dated 8 April 2003 and received on 11 April 2003 in the Registry, the French Republic stated that it "consent[ed] to the jurisdiction of the Court to entertain the Application pursuant to Article 38, paragraph 5". This consent made it possible to enter the case in the Court's List and to open the proceedings. In its letter, France added that its consent to the Court's jurisdiction applied strictly within the limits "of the claims formulated by the Republic of the Congo" and that "Article 2 of the Treaty of Co-operation signed on 1 January 1974 by the French Republic and the People's Republic of the Congo, to which the latter refers in its Application, does not constitute a basis of jurisdiction for the Court in the present case".

230. The Application of the Republic of the Congo was accompanied by a request for the indication of a provisional measure "seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux tribunal de grande instance".

231. Taking into account the consent given by France and in accordance with Article 74, paragraph 3, of the Rules of Court, the President of the Court fixed 28 April 2003 as the date for the opening of the public hearings on the request for the indication of a provisional measure submitted by the Republic of the Congo.

232. After those hearings had been held, from 28 to 29 April 2003, the President of the Court, on 17 June 2003, read the Order, by which the Court found, by fourteen votes to one, that the circumstances, as they presented themselves to the Court, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

233. Judges Koroma and Vereshchetin appended a joint separate opinion to the Order, and Judge ad hoc de Cara a dissenting opinion.

234. By an Order of 11 July 2003, the President of the Court fixed 11 December 2003 as the time-limit for the Memorial of the Republic of the Congo and 11 May 2004 as the time-limit for the Counter-Memorial of France. The Memorial and the Counter-Memorial were duly filed within the time-limits fixed.

235. By an Order of 17 June 2004, the Court, taking account of the agreement of the parties and of the particular circumstances of the case, authorized the submission of a Reply by the Republic of the Congo and a Rejoinder by France, and fixed 10 December 2004 and 10 June 2005 as the respective time-limits for the filing of those pleadings.

25. Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)

236. On 24 July 2003 Malaysia and Singapore jointly notified the Court of a Special Agreement which was signed between them on 6 February 2003 at Putrajaya and entered into force on 9 May 2003.

In Article 2 of that Special Agreement, the parties requested the Court

"to determine whether sovereignty over:

(a) Pedra Branca/Pulau Batu Puteh;

(b) Middle Rocks;

(c) South Ledge,

belongs to Malaysia or the Republic of Singapore".

In Article 6, the parties "agree to accept the Judgment of the Court . . . as final and binding upon them".

The parties further set out their views on the procedure to be followed.

By an Order of 1 September 2003, the President of the Court, taking into account the provisions of Article 4 of the Special Agreement, fixed 25 March 2004 and 25 January 2005 as the respective time-limits for the filing, by each of the parties, of a Memorial and of a Counter-Memorial. The Memorials were duly filed within the time-limit fixed.

B. Request for an advisory opinion

1. Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory

237. On 8 December 2003, the General Assembly of the United Nations adopted resolution A/RES/ES-10/14 (A/ES-10/L.16) in which, referring to Article 65 of the Statute of the Court, it requested the International Court of Justice to "urgently render an advisory opinion on the following question:

What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?"

238. The Request for an Advisory Opinion was transmitted to the Court by the Secretary-General of the United Nations in a letter dated 8 December 2003 which was received in the Registry on 10 December 2003.

239. By an Order of 19 December 2003, the Court decided that the United Nations and its Member States were likely, in accordance with Article 66, paragraph 2, of the Statute, to be able to furnish information on all aspects raised by the question submitted to the Court for an advisory opinion and fixed 30 January 2004 as the time-limit within which written statements might be submitted to it on the question in accordance with Article 66, paragraph 4, of the Statute. By the same Order, the Court further decided that, in the light of resolution ES-10/14 and the report of the Secretary-General transmitted with the request, and taking into account the fact that the General Assembly had granted Palestine a special status of observer and that the latter was co-sponsor of the draft resolution requesting the advisory opinion, Palestine might also submit a written statement on the question within the above time-limit.

240. By the aforesaid Order, the Court also decided, in accordance with Article 105, paragraph 4, of the Rules of Court, to hold public hearings during which oral statements and comments might be presented to it by the United Nations and its Member States, regardless of whether or not they had submitted written statements, and fixed 23 February 2004 as the date for the opening of the said hearings. By the same Order, the Court decided that, for the reasons set out above, Palestine might also take part in the hearings. Lastly, it invited the

United Nations and its Member States, as well as Palestine, to inform the Registry, by 13 February 2004 at the latest, if they were intending to take part in the above-mentioned hearings. By letters of 19 December 2004, the Registrar informed them of the Court's decisions and transmitted to them a copy of the Order.

241. Ruling on requests submitted subsequently by the League of Arab States and the Organization of the Islamic Conference, the Court decided, in accordance with Article 66 of its Statute, that those two international organizations were likely to be able to furnish information on the question submitted to the Court, and that consequently they might for that purpose submit written statements within the time-limit fixed by the Court in its Order of 19 December 2003 and take part in the hearings.

242. Pursuant to Article 65, paragraph 2, of the Statute, the Secretary-General of the United Nations communicated to the Court a dossier of documents likely to throw light upon the question.

243. By a reasoned Order of 30 January 2004 regarding its composition in the case, the Court decided that the matters brought to its attention by the Government of Israel in a letter of 31 December 2003, and in a confidential letter of 15 January 2004 addressed to the President pursuant to Article 34, paragraph 2, of the Rules of Court, were not such as to preclude Judge Elaraby from sitting in the case.

244. Within the time-limit fixed by the Court for that purpose, written statements were filed by, in order of their receipt: Guinea, Saudi Arabia, League of Arab States, Egypt, Cameroon, Russian Federation, Australia, Palestine, United Nations, Jordan, Kuwait, Lebanon, Canada, Syria, Switzerland, Israel, Yemen, United States of America, Morocco, Indonesia, Organization of the Islamic Conference, France, Italy, Sudan, South Africa, Germany, Japan, Norway, United Kingdom, Pakistan, Czech Republic, Greece, Ireland on its own behalf, Ireland on behalf of the European Union, Cyprus, Brazil, Namibia, Malta, Malaysia, Netherlands, Cuba, Sweden, Spain, Belgium, Palau, Federated States of Micronesia, Marshall Islands, Senegal, Democratic People's Republic of Korea.

245. In the course of hearings held from 23 to 25 February 2004, the Court heard oral statements, in the following order, by: Palestine, South Africa, Algeria, Saudi Arabia, Bangladesh, Belize, Cuba, Indonesia, Jordan, Madagascar, Malaysia, Senegal, Sudan, League of Arab States, Organization of the Islamic Conference.

246. At a public sitting held on 9 July 2004, the Court delivered its Advisory Opinion, the final paragraph of which reads as follows:

> "For these reasons,
>
> THE COURT,
>
> (1) Unanimously,
>
> Finds that it has jurisdiction to give the advisory opinion requested;
>
> (2) By fourteen votes to one,
>
> Decides to comply with the request for an advisory opinion;
>
> IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;
>
> AGAINST: Judge Buergenthal;
>
> (3) Replies in the following manner to the question put by the General Assembly:
>
> A. By fourteen votes to one,
>
> The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal;

B. By fourteen votes to one,

Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal;

C. By fourteen votes to one,

Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal;

D. By thirteen votes to two,

All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; all States parties to the Fourth Geneva Convention relative to the Protection of

Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judges Kooijmans, Buergenthal;

E. By fourteen votes to one,

The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated régime, taking due account of the present Advisory Opinion.

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal."

Judges Koroma, Higgins, Kooijmans and Al-Khasawneh appended separate opinions to the Advisory Opinion of the Court; Judge Buergenthal appended a declaration; Judges Elaraby and Owada appended separate opinions.

C. Adoption of Practice Directions additional to the Rules of Court:

247. In the process of its ongoing review of its procedures and working methods, the Court, during the period under review, has decided to take further measures for increasing its productivity. Given the more frequent recourse to the Court by States in recent years, these measures are required to enable the Court to fulfil its role as principal judicial organ of the United Nations as efficiently and effectively as possible. They will supplement those steps which have already been taken by the Court to expedite the examination of cases brought before it (see the previous Report for 2001-2002 (A/57/4)).

248. The new measures mostly concern the internal functioning of the Court and provide practical methods for increasing the number of decisions rendered each year, inter alia by shortening the period between the closure of written proceedings and the opening of oral proceedings. In addition, the Court seeks better compliance by States parties to cases with its previous decisions aimed at accelerating the Court's procedure, which it intends to apply more strictly.

249. The Court has also amended existing Practice Direction V and promulgated new Practice Directions X, XI and XII. The amendment to Practice Direction V, which sets the four-month period for the presentation by a party of its observations and submissions on preliminary objections, clarifies that this period runs from the date of the filing of the preliminary objections. Practice Direction X requests the agents of the parties to attend without delay any meeting called by the President of the Court whenever a decision on a procedural issue needs to be made in a case. Practice Direction XI states that in the oral pleadings on provisional measures parties should limit themselves to what is relevant to the criteria for the indication of such measures. Finally, Practice Direction XII establishes a procedure to be followed with regard to written statements and/or documents submitted by international non-governmental organizations in connection with advisory proceedings.

The full texts of the amended Practice Direction V and new Practice Directions X, XI and XII are reproduced below.

Text of the Practice Directions

Practice Direction V

Amended to read as follows:

With the aim of accelerating proceedings on preliminary objections made by one party under Article 79, paragraph 1, of the Rules of Court, the time-limit for the presentation by the other party of a written statement of its observations and submissions under Article 79, paragraph 5, shall generally not exceed four months from the date of the filing of the preliminary objections.

Practice Direction X

Whenever a decision on a procedural issue needs to be made in a case and the President deems it necessary to call a meeting of the Agents to ascertain the views of the parties in this regard pursuant to Article 31 of the Rules of Court, Agents are expected to attend that meeting as early as possible.

Practice Direction XI

The Court has noticed the increasing tendency of parties to request the indication of provisional measures. Parties should in their oral pleadings thereon limit themselves to what is relevant to the criteria for the indication of provisional measures as indicated in the Statute, Rules and jurisprudence of the Court. They should not enter into the merits of the case beyond what is strictly necessary for that purpose.

Practice Direction XII

1. Where an international non-governmental organization submits a written statement and/or document in an advisory opinion case on its own initiative, such statement and/or document is not to be considered as part of the case file.

2. Such statements and/or documents shall be treated as publications readily available and may accordingly be referred to by States and intergovernmental organizations presenting written and oral statements in the case in the same manner as publications in the public domain.

3. Written statements and/or documents submitted by international non-governmental organizations will be placed in a designated location in the Peace Palace. All States as well as intergovernmental organizations presenting written or oral statements under Article 66 of the Statute will be informed as to the location where statements and/or documents submitted by international non-governmental organizations may be consulted.

VI. Visits

A. Official Visits of Heads of State and of Government

Visit of the Prime Minister of Madagascar

250. On 23 October 2003, H. E. Mr. Jacques Sylla, Prime Minister of Madagascar, was received by the Court at a private meeting of the Court, held in its Deliberation Room.

251. The President of the Court, Judge Shi Jiuyong, gave a welcoming speech to the Prime Minister. The President declared that it was "the first time that an African Head of Government [had] been invited to join Members of the Court for a working session in the deliberation room." He added that the Prime Minister's visit confirmed the trust that Madagascar had placed in the Court by depositing, in 1992, a declaration accepting the compulsory jurisdiction of the Court, under Article 36, paragraph 2, of the Statute. The President's speech was followed by a presentation by Judge Vereshchetin on "Immunities in international law, in the jurisprudence of the ICJ".

252. The Prime Minister of Madagascar took the floor thereafter, declaring that he was "proud to have been received by the world's highest judicial body, which makes an eminent contribution to the establishment of peace through the law and which, in the current international context, has a fundamental role to play in maintaining a balance between contradictory elements: the rule of law, on the one hand, and, on the other, the principle of respect for independent States, together with the protection of acts relating to the various functions assumed by their representatives". A discussion followed.

Visit of the President of the Swiss Confederation

253. On 25 May 2004 H. E. Dr. Joseph Deiss, President of the Swiss Confederation, was received by the Court.

254. At a solemn sitting organized in the Great Hall of Justice and attended by the diplomatic corps and representatives of the Dutch authorities, the International Criminal Tribunal for the former Yugoslavia, the International Criminal Court, the Iran-United States Claims Tribunal and other international institutions located in The Hague, the President of the Court made a speech, to which the President of the Swiss Confederation replied.

255. President Shi recalled Switzerland's commitment to the promotion of peace and international justice. In addition to having hosted for almost 150 years a large number of international organizations, "Switzerland has produced a long line of eminent jurists, philosophers and humanitarian activists whose contributions . . . have earned them a well-deserved place in the annals of history", he stated. He commended the "supreme achievement" of Henry Dunant, whose vision led to the adoption of the Geneva conventions and to the creation of the International Committee of the Red Cross, and praised the work on international law of Max Huber, who was a Member and then President of the International Permanent Court of Justice, predecessor of the ICJ, in the 1920s. His work "continues to serve as a powerful inspiration to both lawyers and humanitarian activists alike", he noted. President Shi further observed that "while Switzerland chose not to join the United Nations after the Second World War (which it did in 2002) for reasons of neutrality, this position has not affected its support for the work of the International Court of Justice", since it became a party to the Statute of the Court on 28 July 1948 and on the same day its declaration recognizing as compulsory the jurisdiction of the Court took effect. "Since that time", added the President, "Switzerland has participated in contentious and advisory proceedings before the Court, encouraging the latter in the accomplishment of its mission.

256. In reply, President Deiss stated that his country's natural commitment to an international order founded on the rule of law could be explained by the fact that the Swiss political culture implied three fundamental aspects: federalism, direct democracy and pragmatism. Those aspects, he stressed, "have enabled Switzerland to become a country in which different cultures, languages and religions co-exist peacefully".

"Switzerland's neutrality", he added, "does not prevent it from playing an active role in favour of an international peaceful order. It is an instrument of foreign policy that has not ceased to adapt to the global context." Switzerland, President Deiss further stated, has continuously supported efforts to develop international judicial instruments. He concluded: "The International Court of Justice is the guardian of international law and the driving force in the peaceful resolution of differences between States. Together with 'International Geneva'— a privileged site for humanitarian law, human rights and disarmament — it also makes an invaluable contribution to the construction of an international order that is more just, stable, secure and peaceful. Switzerland can but resolutely support the work of your Court."

B. Other Visits

257. During the period under review, the President and Members of the Court, the Registrar and officials of the Registry received further a great number of visits of, inter alia, members of government, diplomats, parliamentary delegations, presidents and members of judicial bodies, as well as other high officials.

258. A great number of groups of scholars and academics, lawyers and legal professionals, as well as others, was also received.

VII. Addresses on the Work of the Court

259. During the period covered by this report, the President of the Court, in his official capacity, addressed on 27 October 2003 the meeting of Legal Advisers to Ministers of Foreign Affairs of the United Nation Member States. On 29 October 2003, he also gave a short address to the Sixth Committee of the General Assembly. On 30 October 2003 he gave a speech to the Asian-African Legal Consultative Organization. President Shi addressed the 50th plenary meeting of the fifty-eighth session of the General Assembly on 31 October 2003, on the occasion of the presentation of the Court's Annual Report. On 14 April 2004, the President addressed the United Nations University in Tokyo, on the relations between Asia and the Court, while, on 7 July 2004, he addressed the United Nations International Law Commission, during its fifty-sixth session (second part), which was held at Geneva.

VIII. Publications, Documents and Web Site of the Court

260. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court, and to the major law libraries of the world. The sale of those publications is organized chiefly by the Sales and Marketing Sections of the United Nations Secretariat in New York and Geneva, which are in contact with specialized booksellers and distributors throughout the world. A catalogue (together with a price-list) published in English and French is distributed free of charge. A revised and updated version of the catalogue has been prepared and is scheduled to appear in the second half of 2004.

261. The publications of the Court consist of several series, three of which are published annually: Reports of Judgments, Advisory Opinions and Orders (published in separate fascicles and as a bound volume), a Yearbook (in the French version: Annuaire) and a Bibliography of works and documents relating to the Court. At the time of preparation of this report, all fascicles in the Reports series for the years 2002 and 2003 and until February 2004 have been published. The bound volume of ICJ Reports 2001 has also appeared, while the bound volumes for 2002 and 2003 will appear as soon as the indexes have been printed.

The Court also prepares bilingual printed versions of the instruments instituting proceedings in a case before it (Applications instituting proceedings, Special Agreements) as well as Requests for an Advisory Opinion. In the period under review, the Court received and printed the request for an advisory opinion in the case concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.

262. Before the termination of a case, the Court may, pursuant to Article 53 of the Rules of Court, and after ascertaining the views of the parties, make the pleadings and annexed documents available on request to the Government of any State entitled to appear before the Court. The Court may also, having ascertained the views of the parties, make copies of those pleadings and documents accessible to the public on or after the opening of the oral proceedings. The written pleadings in each case (in the format in which the parties produce them) are published by the Court after the end of the proceedings, in the series Pleadings, Oral Arguments, Documents. The annexes to the pleadings and the correspondence in cases are now published only exceptionally, as far as they are essential for the understanding of the decisions taken by the Court. The following documents have been published or are at various stages of production in the reporting period: Frontier Dispute (Burkina Faso/Republic of Mali) (4 vols.; three of which to appear in the second half of 2004); Land, Island and Maritime Frontier Dispute (El Salvador/Honduras; Nicaragua intervening) (Vols. 5, 6 and 7 published); Certain Phosphate Lands in Nauru (Nauru v. Australia) (3 vols. published). Also in preparation: Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway) (3 vols.); Aerial Incident of 10 August 1999 (Pakistan v. India) (1 vol.); Legality of the Use by a State of Nuclear Weapons in Armed Conflict and Legality of the Threat or Use of Nuclear Weapons (to be published together) (5 vols.)

263. In the series Acts and Documents concerning the Organization of the Court, the Court also publishes the instruments governing its functioning and practice. The latest edition, No. 5, was published in 1989 and has been reprinted since that date, most recently in 1996. A new edition is being prepared. An offprint of the Rules of Court, as amended on 5 December 2000, is available in English and French. Unofficial Arabic, Chinese,

German, Russian and Spanish translations of the Rules (without the amendments of 5 December 2000) are also available.

264. The Court distributes press releases, summaries of its decisions, background notes and a handbook in order to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The fourth edition of the handbook, published on the occasion of the Court's 50th Anniversary, appeared in May and July 1997 in French and English respectively. A new edition in the two official languages of the Court has been prepared and is scheduled to appear at the end of 2004. Arabic, Chinese, Russian and Spanish translations of the handbook published on the occasion of the 40th Anniversary of the Court were issued in 1990. Arabic, Chinese, Dutch, English, French, Russian and Spanish editions of a general information booklet on the Court, produced in co-operation with the Department of Public Information of the United Nations, and intended for the general public, have also been published.

265. In order to increase and expedite the availability of ICJ documents and reduce communication costs, the Court launched a website on the Internet on 25 September 1997, both in English and French. It features the full text of the Court's Judgments, Advisory Opinions and Orders since 1971 (posted on the day they are delivered); summaries of earlier decisions; most of the relevant documents in pending cases (Application or Special Agreement; written pleadings (without annexes) as soon as they become accessible to the public, and oral pleadings); unpublished pleadings for earlier cases; press releases; some basic documents (United Nations Charter and the Statute and Rules of the Court); declarations recognizing as compulsory the jurisdiction of the Court and a list of treaties and other agreements relating to that jurisdiction; general information on the Court's history and procedure; and biographies of the judges, as well as a catalogue of publications.

266. During the hearings on the request for an advisory opinion in the case concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, from 23 to 25 February 2004, and at the time of the reading of the Court's opinion in that case, on 9 July 2004, the Court's proceedings were broadcast live and in full on the Court' s website. The decision to web-cast the reading was taken in response to the exceptional interest shown by the general public, civil society organizations and the media worldwide, and in view of the Court's very limited seating space for the public and media representatives at the Peace Palace in The Hague.

The website can be visited at the following address: http://www.icj-cij.org.

267. In addition to the website and in order to offer a better service to individuals and institutions interested in its work, the Court in June 1998 set up three new electronic mail (e-mail) addresses to which comments and inquiries can be sent. They are: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and documents) and mail@icj-cij.org (other requests and comments). An e-mail notification system for press releases posted on the Court's website was put into operation on 1 March 1999.

IX. Finances of the Court

A. Method of covering expenditure

268. Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

269. States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute, a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them.

270. If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations.

271. The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization. Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat), bank interest, etc., are also recorded as United Nations income.

B. Drafting of the budget

272. In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. This preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself.

273. When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions (ACABQ) and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations.

C. Financing of appropriations and accounts

274. The Registrar is responsible for executing the budget, with the assistance of the Head of the Finance Division. The Registrar has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget. He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority. In accordance with a decision of the Court, adopted on the recommendation of the Sub-Committee on Rationalization, the Registrar now communicates every three months a statement of accounts to the Administrative and Budgetary Committee of the Court.

275. The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly and, periodically, by the internal auditors of the United Nations. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations.

D. Budget of the Court for the biennium 2004-2005

276. In the last Annual Report, it was observed, with respect to the budget for the biennium 2004-2005, that the Court had, in view of its ongoing and increased reliance upon advanced technology, requested a modest expansion of its Computerized Division from one to two professional officers. The need for a professional staff member with high IT skills appeared to be essential in order to meet the request by the General Assembly for enhanced use of modern technology. Unfortunately the Court's request was not successful, the Advisory

Committee on Administrative and Budgetary Questions (ACABQ) having considered that further justification of the need for this position was required.

277. Two other requests for the 2004-2005 biennium were however granted. Five Law Clerk posts, to conduct research for the fifteen Members of the Court, were converted from temporary to established posts. Moreover, as a result of the enquiry into the "strengthening [of] the security and safety of the United Nations operations staff and premises"(A/58/756) conducted by the Secretary General, two security posts were created, as recommended by the United Nations Security Co-ordinator. The 2004-2005 budget was prepared in advance of the United Nations urgent request for an Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestine Territories. In view of the extraordinary and unforeseen costs, associated inter alia, with security requirements and media demands, incurred for the issuance of the Opinion, it appears certain that the 2004-2005 budget will require additional funds. The Court strongly hopes that the grant of such funds will be rapidly agreed, so that it may continue efficiently to carry out the mission entrusted to it by its Statute, an integral part of the Charter of the United Nations.

Budget for 2004-2005

Programme 181: Members of the Court	
181-130: Education Grants	168,100
181-141: Travel to Court sessions/Home Leave	322,100
181-191: Pensions	2,803,000
181-242: Travel on official business	44,900
181-390: Emoluments	4,848,800
	8,186,900
Programme 182: The Registry	
182-010: Posts	9,926,900
182-020: Temporary assistance for meetings	1,417,300
182-030: General Temporary Assistance	232,300
182-040: Consultants	35,100
182-050: Overtime	80,800
182-070: Temporary posts for the biennium	1,950,400
182-100: Common staff costs	4,890,200
182-113: Representation allowance	7,200
182-242: Official travel	33,700
182-450: Hospitality	17,100
	18,591,000

Programme 800: Programme Support	
800-330: External Translation	243,400
800-340: Printing	566,200
800-370: Data processing services	125,600
800-410: Rental/maintenance of premises	2,325,400
800-430: Rental of furniture and equipment	57,500
800-440: Communications	318,100
800-460: Maintenance of furniture & equipment	207,200
800-490: Miscellaneous services	38,900
800-500: Supplies & materials	229,300
800-530: Library books & supplies	139,500
800-600: Furniture & equipment	110,600
800-621: Acquisition of office automation equipment	120,300
800-622: Replacement of office automation equipment	278,000
[]	[]
	4,760,000
TOTAL	31,537,900

X. Examination by the General Assembly of the previous report of the Court

278. At the 50th plenary meeting of the fifty-eighth session of the General Assembly, held on 31 October 2003, at which the Assembly took note of the report of the Court for the period from 1 August 2002 to 31 July 2003, the President of the Court, Judge Shi Jiuyong, addressed the General Assembly on the role and functioning of the Court (A/58/PV.50).

"While the Court carries out its work in the tranquil setting of The Hague, far from the hustle and bustle of New York Headquarters, its activities contribute in a very direct way to the overall aims and objectives of the United Nations", President Shi said. "The Court's potential in this regard is apparent in the wide-ranging impact its work already has on the international community. In particular, the role which the Court plays, through the power of justice and international law, in resolving disputes between States is widely recognized and evidenced by the number of cases on the Court's docket", he added.

A busy judicial year

279. Since October 2002, the Court had been "as busy as ever", President Shi declared, stating that the Court's docket stood at 23 cases. "The subject-matter of the cases before the Court is extremely varied", he said. "It currently ranges from cases concerning territorial disputes between States", to complaints regarding the treatment of nationals of a State in another State, to cases relating to questions concerning events also addressed by the General Assembly or the Security Council of the United Nations.

280. President Shi stated that, during the period under review in the Report (1 August 2002-31 July 2003), the Court had made several decisions, including three judgments on merits and two orders on request for provisional measures. In October 2002, the Court handed down its judgment in the case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening), thereby putting an end to a long-standing territorial and frontier dispute. In December 2002 the Court rendered its judgment in the case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), finding that sovereignty over the islands of Ligitan and Sipadan belonged to Malaysia. In the third of its judgments, the Court rejected the request filed by Serbia and Montenegro (then called Yugoslavia) in April 2001 for revision of the Court's previous decision on preliminary objections of 11 July 1996 in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro).

281. In February 2003, the Court issued an Order indicating provisional measures in the case Avena and Other Mexican Nationals (Mexico v. United States of America) submitted by Mexico on 9 January 2003 concerning a dispute over alleged violations of the Vienna Convention on Consular Relations with respect to 51 Mexican nationals sentenced to death in certain states of the United States of America. The Court stated that the United States "shall take all measures necessary to ensure that [three of the Mexican nationals, who are at risk of execution in the month coming,] are not executed pending final judgment" in the case; and that the United States "shall inform the Court of all measures taken in implementation of the Order".

282. By an Order of June 2003, the Court rejected the Congo's request for the indication of provisional measures in the case concerning Certain Criminal Proceedings in France (Republic of the Congo v. France). In that case, the proceedings had been instituted by the Congo, citing as jurisdictional basis "the consent of the French Republic, which will certainly given", under Article 38, paragraph 5, of the Rules of Court. President Shi observed, that it was "the first case of the kind [contemplated by that text] in which the State named as respondent, on being notified of the application made against it, has in fact agreed to accept jurisdiction". "Since France was free to disregard the application, the fact that it chose to accept jurisdiction, to appear and defend the case, is an encouraging tribute to the value of judicial proceedings as a means of pacific settlement of disputes", President Shi concluded.

283. President Shi stressed the fact that "both judgments and orders indicating provisional measures made by the Court are binding on the parties". "It is indeed this binding nature of its decisions which lies at the heart of the Court's mission to solve legal disputes between States and is the necessary condition for the successful achievement of that mission", said the President. Under Article 94, paragraph 1, of the Charter, "[e]ach Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party". Article 60 of the Statute of the Court adds that judgments of the Court are "final and without appeal".

"The binding effect of orders indicating provisional measures under Article 41 of the Statute of the Court has recently been confirmed by the judgment rendered by the Court in the LaGrand case. The Court has therefore no doubt that parties to litigation before it will continue to implement its decisions, as they have done in the past", President Shi added.

A heavy working schedule

284. President Shi presented an overview of the busy working schedule of the Court for the following months. The Court having completed its deliberations on the Oil Platforms (Islamic Republic of Iran v. United States of America) case shortly before, it would deliver its Judgment in this case on 6 November 2003. President Shi added that the Chamber of the Court in the case concerning Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras) was currently deliberating on its judgment.

285. Furthermore, hearings were scheduled for the greatest part of November 2003 in the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), while hearings in the case concerning Avena and Other Mexican Nationals (Mexico v. United States of America) were due to open in December 2003.

286. In addition, the Court had, as requested by the parties, also formed a five-member Chamber to deal with a boundary dispute between Benin and Niger.

"The Court is thus maintaining its work rate and looks forward to an equally busy schedule next year", President Shi declared.

Helping the Court fulfil its missions

287. In his speech, President Shi indicated that, while making its budgetary proposals for 2004-2005, "the Court has restricted itself to proposals which are financially modest but also of the utmost significance for the implementation of key aspects of its work". "The Court hopes that these budgetary proposals will meet with [the General Assembly's] agreement, thereby enabling the principal judicial organ of the United Nations better to serve the international community", he said.

288. President Shi concluded his address by stressing that "the impartiality of the Court's judicial procedure and the equality of arms which it guarantees to the parties before it — inherent elements in the Court's nature — without doubt contribute to the effective resolution of [legal] disputes [between States]". He added that, "in performing its dispute resolution function, the Court, which embodies the principle of equality of all before the law, acts as guardian of international law, and ensures the maintenance of a coherent international legal order". Eventually, President Shi assured the Assembly "that the Court will pursue its efforts to respond to the hopes placed in it".

289. Following the presentation of the Court's report by its President, the representatives of Malaysia, Kenya, the Philippines, Japan, Madagascar, the Russian Federation and Nigeria made statements.

290. More comprehensive information on the work of the Court during the period under review will be found in the I.C.J. Yearbook 2003-2004, to be issued in due course.

SHI Jiuyong,
President of the International
Court of Justice.

The Hague, 9 August 2004.

04-49403 (E) 211004